

Chapter 62A ACTIVITIES ON THE SURFACE OF WATER – RULES**62A.1 INTRODUCTION**

Activities on the surface of water are jointly controlled by the Napier City Council, Hastings District Council, the Hawke's Bay Regional Council and Maritime New Zealand. In terms of activities on the surface of the water, Napier City Council takes a regional view as to the waterbodies that are suitable for certain types of activities. While the Regional Council is primarily responsible for controlling surface of water activities in the Coastal Marine Area, the City Council's functions include the control of any actual or potential effect of activities in relation to the surface of inland waters. These effects can include loss of water quality, conflict between activities in relation to water bodies and impacts on ecological systems and habitats.

Several authorities have duties and powers relating to the regulation of the use of waterbodies. Under the Resource Management Act 1991, the Regional Council is responsible for the management of water quality and quantity, structures on the bed of waterways and, under the Local Government Act, the responsibility to promote safety as well as the power to write and enforce bylaws for navigational safety in all waterways within the Region. The Harbour Master also has duties relating to navigation safety and the enforcement of any bylaws relating to navigational safety. The Maritime Transport Act 1993 established the Maritime Safety Authority, which was subsequently renamed Maritime New Zealand in 2005. The Crown entity is responsible for the promotion of safety, enforcing standards, and the investigation of accidents or incidents on the water.

Part 91 of the Maritime Rules establishes restrictions governing the control of activities on the surface of water outside of gazetted harbours relating to safety matters. These are enforced by Maritime New Zealand and enable enforcement of speed restrictions on all inland waterways including a 5 knot speed limit within 200 metres of the shore and within 50 metres of any other vessel, raft, or person in the water. In terms of the District Plan then, the important issue is what (if any) additional controls are required over and above those imposed by the aforementioned responsibilities. Largely the role of the District Plan is to enable consideration of public safety and to minimise conflicting uses when considering effects of activities on the surface of the water.

Napier City contains two rivers of significance. These are the Tutaekuri and the Esk River. The Napier City Council also controls the Ahuriri Estuary above the Coastal Marine Area Boundary. The recreational demands on these water bodies have resulted in the need for limited controls on some surface of water activities. Such controls relate to speed boating, jet and water skiing and the impacts these uses can have on other more passive pursuits such as rafting, boating, angling, game bird shooting, yachting and rowing, as well as on ecological systems and habitats.

Hastings District contains a number of rivers and lakes that have recreational, commercial, natural and cultural significance. The major recreational waters of this District include the Clive, Ngaruroro, Tukituki, Tutaekuri and Mohaka rivers and their contributory streams, and Lakes Tutira and Opouahi. Additional water bodies of significance in Hastings District include Lake Oinga, Lake Poukawa, the Esk River and the Karamu and Maraetotara Streams.

A regional approach to addressing issues associated with surface of water activities has been taken. As such, sections of the Ngaruroro, Mohaka and Clive Rivers have been identified as more suitable for motorised activities due to their more consistent water flow rates and their ease of navigation.

RESOURCE MANAGEMENT ISSUES

The following resource management issues have been identified as significant within Napier City in respect of Activities on the Surface of Water.

62A.1.1 Surface of the Water activities contribute to the social and economic well being of the District's communities.

A range of recreational and commercial activities utilise the Regions Rivers. Surface of Water Activities such as rafting, power boating and jet skiing provide social and commercial opportunities within the Region while a range of recreational water uses provide an essential function for the communities' well being.

62A.1.2 Surface of Water Activities can have detrimental effects on the quality of the water resource and its flora and fauna.

While the Regional Council has prime responsibility in maintaining water quality and quantity, some activities in certain locations can have harmful effects on aquatic ecosystems and the margins of waterbodies through inappropriate levels of activity. For example motor boats operating in shallow waters can have detrimental impacts on plant life and fish spawning sites.

62A.1.3 The use of the surface of water bodies by different activities can create conflicts between these activities or other uses occurring on land adjoining the water bodies.

As the range of activities occurring on water bodies increases, activities such as angling and power boating, can come into conflict with one another because of their different needs and the inability of these needs to be met compatibly when the activities occur at the same time on a water body.

OBJECTIVES, POLICIES AND METHODS**Objective 62A.2**

To enable the use of the surface of waterbodies for a range of recreational, commercial, cultural and water protection activities, while mitigating any adverse effects arising from that use.

This objective relates to Issues 62A.1.1. and 62A.1.3.

Policies

To meet this objective the Council will:

62A.2.1 Segregate activities which are incompatible with particular water body environments, or with other activities occurring on the surface of water as far as practicable.

Principal Reasons for Adopting Objective and Policies

As conflicts can occur between different types of surface water activities, the safe and efficient management of the surface water resource requires that some standards be set in place to remove the potential risk to the safety of people participating in these activities. This is achieved by restricting the access of particular activities to certain water bodies in the District. In identifying which waterbodies are suitable for certain types of activities, the plan has also taken into account whether those activities will have any significant adverse effects on the waterbody.

Sections of the Ngaruroro, Mohaka, and Clive Rivers has been specifically set aside for Motorised Water Recreation Activities in the Region. These rivers are recognised as being suitable for these activities because of their more consistent water flow rates, and their ease of navigation. While none of these waterbodies are within Napier City, they are easily accessible for residents of Napier and are regularly used by Napier residents for this purpose.

Objective 62A.3

To maintain or enhance the natural character of rivers and their margins within the City from the significant adverse effects of surface water activities.

This objective relates to Issue 62A.1.2.

Policies

To meet this objective the Council will:

62A.3.1 Ensure that surface water activities avoid, remedy or mitigate their adverse effects on other surface water activities, or activities adjoining the waterbodies.

62A.3.2 Mitigate adverse effects of Motorised Water Recreation Activities on the flora and fauna of waterbodies by limiting the frequency of activity and the time of year when it can occur (other than on selected sections of the Ngaruroro, Clive and Mohaka Rivers).

Principal Reasons for Adopting Objective and Policies

Many activities being undertaken on the Surface of Water are recreational and transitory in nature. This makes them difficult to regulate. Certain activities, particularly those using powered water craft can create a nuisance to other water users, and adjoining landowners. Hours of Operation for Activities on the Surface of Water will be used to reduce potential conflicts, in addition to segregating users onto different waterbodies.

The presence of motorised craft on surface water bodies can have detrimental effects on plant and animal life through noise disturbance, wave lap and/or physical contact particularly at certain periods of the year

when water levels are low. To ensure the environment is not damaged, the frequency of access to these water bodies will be restricted, as well as the time of year when access can occur. Such restrictions do not apply on selected sections of the Ngaruroro, Clive and Mohaka Rivers, consistent with their gazetting under the Water Recreation Regulations, for the purpose of allowing small craft to exceed the 5 knot speed limit. The identification and unrestricted frequency of use of these defined sections of rivers for motorised water recreation activities is one method in which potential conflict between different surface of water activities, and adverse effects by such activities on the flora and fauna of other waterbodies, is largely avoided.

Methods

- (1) District Plan Rules.
- (2) National Coastal Policy Statement and Plan
- (3) Hawke's Bay Regional Resource Management Plan
- (4) Hawke's Bay Navigation Safety Bylaws 2012
- (5) Hawke's Bay Coastal Environment Plan
- (6) Water Recreation Regulations 1979
- (7) Reserves Act 1977

62A.4 ANTICIPATED ENVIRONMENTAL RESULTS

- (1) Potential conflicts between surface of water activities and adjoining activities will be avoided, remedied or mitigated.
- (2) A wide range of recreational, commercial and cultural activities will be able to utilise the District's water resources.
- (3) Maintain or enhance the natural amenity and intrinsic values of waterbodies.

RULES

All rules apply throughout the city but over-ride the relevant specific zone rules and district wide rules, unless otherwise stated.

62A.5 Summary of Activities on the Surface of Water Rules

Rule Number and Description		Classification	Page Number
Rule 62A.5(1)(a)	Passive and non-motorised water recreation activities	Permitted	6
Rule 62A.5(1)(b)	Noxious flora and fauna control activities	Permitted	6
Rule 62A.5(1)(c)	The use of motorised craft on all waterbodies carried out by a local authority or organisation exercising powers, functions and duties required as part of their responsibilities under any relevant statutory provisions.	Permitted	6
Rule 62A.6	Up to three temporary events per year, for non-commercial motorised water recreation activities on the Tutaekuri River	Controlled	6
Rule 62A.7	Surface of Water Activities Not Complying With Conditions	Restricted Discretionary	6
Rule 62A.8(a)	Commercial motorised water recreation activities.	Discretionary	7
Rule 62A.8(b)	Non-commercial motorised water recreation activities on the Esk River and Ahuriri Estuary above the Coastal Marine Area.	Discretionary	7
Rule 62A.8(c)	The Fourth or any subsequent temporary events per year, for non-commercial motorised recreation activities on the Tutaekuri River.	Discretionary	7

DISTRICT WIDE ACTIVITIES ON THE SURFACE OF WATER – ACTIVITY TABLE

PERMITTED ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities
<p>62A.5 Permitted Activities on the Surface of Water</p> <p>1. The following uses are permitted activities on the Surface of Waterbodies:</p> <ul style="list-style-type: none"> a) Passive and non-motorised water recreation activities. b) Noxious flora and fauna control activities c) The use of motorised craft on all waterbodies carried out by a local authority or organisation exercising powers, functions and duties required as part of their responsibilities under any relevant statutory provisions. 	
CONTROLLED ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p>62A.6 Up to three temporary events per year, for non-commercial motorised water recreation activities on the Tutaekuri River.</p> <p>1. Up to three temporary events per year, for non-commercial motorised water recreation activities on the Tutaekuri River is a controlled activity, provided that:</p> <ul style="list-style-type: none"> a) Activities comply with the provisions of Chapter 57 of the District Plan on Noise (Note Rule 57.7 'Watercraft'). b) The proposed activity is to take place as part of an organised temporary event. c) The proposed event is to take place between August and October (inclusive). d) Activities take place between the hours of 8am and 11.30pm e) The proposed event shall have a maximum duration of two days. <p>NOTE: Reference should also be made to the Regional Resource Management Plan as the Regional Council has responsibility for the management of the beds of rivers and lakes.</p> <p>Where consent is also required from Hastings District Council, only one consent shall be obtained from either Napier City Council or Hastings District Council. The consenting authority shall liaise with the other Council to determine any conditions.</p>	<p>The Council will have regard to the relevant objectives and policies of the Plan and will restrict its discretion to:</p> <ul style="list-style-type: none"> - Access and Carparking - Where special events are to be held, access shall be located to ensure traffic safety is maintained. The provision of adequate carparking is also required, and Council will require information on the number of persons attending the event in order to assess what parking is to be provided - In the opinion of The Hawke's Bay Regional Council, the Fish and Game Council and or the Department of Conservation, that the predicted water level in river for the temporary event is high enough to mitigate the effects of that event.
RESTRICTED DISCRETIONARY ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p>62A.7 Surface of Water Activities Not Complying With Conditions</p> <p>1. Any use referred to in Rules 62A.4 to 62A. that does not comply with all of the relevant conditions in the Activities on the surface of water activity table is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.</p>	<p>The Council will have regard to the relevant objectives and policies of the Plan and will restrict its discretion to:</p> <ul style="list-style-type: none"> - The extent to which the proposed activity may adversely impact on the intrinsic values of any significant landscape character and/or riparian area as well as the potential for the proposed activity to adversely impact on any cultural values. - The extent to which alternative locations have

	<p>been considered.</p> <ul style="list-style-type: none"> - The effects of the scale, character and nature of the activity on other Surface of Water Activities and its compatibility with activities adjacent to the waterbody. - The actual and potential adverse effects of the surface water activity on the aquatic ecosystem, water body margins and any river control works. - The extent to which the activity is identified with the locality and the contribution of the activities to the wider amenity and character of the area, as well as to the economic well being of the community. - The ability of the roading hierarchy to accommodate any additional traffic generated by the activity.
DISCRETIONARY ACTIVITIES	
62A.8 Discretionary Activities	
<p>1. The following uses are discretionary activities. A resource Consent Application must be made and consent may be declined or granted with or without conditions. The Council will have regard to the objectives and policies of this Plan and the matters listed above under 62A.10 for restricted discretionary activities. The Council's discretion is unrestricted.</p> <ul style="list-style-type: none"> a) Commercial motorised water recreation activities. b) Non-commercial motorised water recreation activities on the Esk River and Ahuriri Estuary above the Central Marine Area. c) The Fourth or any subsequent temporary events per year, for non-commercial motorised recreation activities on the Tutaekuri River. 	
PROHIBITED ACTIVITIES	
62A.9 Prohibited Activities	
<p>1. There are no activities on the surface of water that are a prohibited activity.</p>	

62A.1 PRINCIPAL REASONS FOR RULES

1. **Passive and non-motorised water recreation activities**

Although different activities occurring on water bodies can come into conflict with one another and with activities occurring on adjacent land, such activities have very minor effects on water quality, flora and fauna and are therefore unrestricted within any water bodies in the City.

2. **Noxious flora and fauna control activities**

Usually carried out by the regional Council, these activities are permitted to allow removal and treatment of noxious plants without unnecessary delay.

3. **The use of motorised craft on all water bodies carried out by a local authority or organisation exercising powers, functions and duties required as part of their responsibilities under any relevant statutory provisions.**

Activities carried out in accordance with legislated powers, functions and duties are deemed to have already had environmental effects assessed, in the process of developing that legislation. It is assumed that the benefits of these activities outweigh any costs and requiring consent for these activities is adding an unnecessary additional layer of regulation.

4. **Temporary events**

Motorised water recreation activities on the Tutaekuri River are not encouraged because the characteristics of the river mean that it is highly susceptible to damage from such activities. However, it has been deemed that if events are well organised and Council has control of timing of such event, their duration and hours of operation, three of these events could occur per year without an intolerable level of effects.

5. **Commercial motorised water recreation activities.**

Commercial motorised water recreation activities have potential to generate detrimental environmental effects on water quality, flora and fauna. Additionally, the activity can have effects on amenity and cultural values associated with the river. Commercial Activities are considered Discretionary Activities so that a full assessment of effects can take place and consent can be declined if necessary.