



PLANNING REPORT (Section 42A) on submissions

PROPOSED PLAN CHANGE 19 – ACTIVITIES ON AND WITHIN WATERBODIES,

MACKENZIE DISTRICT PLAN

HEARING: 28, 29 and 30 November 2018

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ATTACHMENTS

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Attachment C - Navigational Safety Bylaw Map

Attachment D – Visual Assessment

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Attachment F – Section 32 Assessment

Attachment G – Recommended amendments to PC19

1. Introduction

This report has been prepared to assist the hearing panel in assessing submissions and further submissions on proposed Plan Change 19 to the Mackenzie District Plan which deals with activities on and within waterbodies – refer **Attachment A** and **Attachment F** (Section 32 assessment). It should be noted that the recommendations made in this report are made at the time of writing with the information available. The recommendations herein are in no way binding and it should not be assumed that the Hearing Panel will reach the same conclusions having heard all the evidence.

My name is Patricia Harte. I am a planning consultant with Davie Lovell-Smith Ltd contracted to the Mackenzie District Council to prepare and report proposed Plan Change 19 – Activities on and within Waterbodies. I hold a Bachelor of Laws from the University of Canterbury (1986) and a Master of Science (Resource Management) from Lincoln University (1981). I have worked in the field of planning/resource management since 1980. I am also a Ministry for the Environment accredited Hearings Commissioner

The Plan Change (PC19) was prepared in response to concerns that the current District Plan did not adequately provide for the management of activities on waterbodies such that their natural, amenity and landscape values are maintained and protected. Control of actual and potential effects of activities in relation to the surface of water in rivers and lakes is a function allocated to territorial authorities under section 31(1)(d) of the Resource Management Act. The operative Mackenzie District Plan currently manages these activities as one form of “outdoor recreation activities” contained in Rural Zone rule 7. To enable a more refined control of these activities based on the varying values of the waterbodies it was decided to modify the policy framework and take activities on waterbodies out of the outdoor recreation rule 7 and create a new Rural zone rule 7A – Activities on and within waterbodies.

Some of the existing provisions in the Rural Zone relating to activities on waterbodies have been retained or are retained with very minor amendments namely:

- Rural Objective 8 – Surface of Waterways : renamed Activities on or with Waterbodies
- Rural Policy 8A - Recreational Use of Riverbeds and Waterbodies: renumbered 8E and renamed Effects on Wildlife and Wildlife Habitats
- Rural Policy 8C – Regulations: renumbered 8G with minor rewording
- Rural Policy 8D – Cross Boundary Co-ordination: Renumbered 8H

With regard to the rules in new Rural Zone Rule7A, these are all new rules although some elements have been taken from the current rules.

Plan Change Processes

July 2017: In response to concerns raised about commercial boating activities, particularly on Lake Pukaki, an Issues and Options report was prepared initially for Council consideration.

August 2017: Council then released this Issues and Options report to the public seeing feedback

December 2017: proposed Plan Change 19 was formally publicly notified along with proposed Plan Change 18 – Indigenous Biodiversity

9 March 2018: Submissions closed – 165 submission were received

21 April 2018: Summary of submission notified and further submissions invited

4 May 2018: Further submissions closed: 14 further submissions received

How amendments are shown

Throughout this report additions are shown as underlined and deletions as ~~strikethrough~~. However in this report these methods applying to three different situations, namely;

- Firstly, they are used in PC19 as notified as some parts of PC19 are new and so are underlined and other parts have been deleted and so show as strikethrough
- Secondly, deletions and strikethroughs are used by submitters in their requested amendments which are listed in tables at the beginning of each topic being assessed. The Objectives and policies, but not their explanations, are in italics as they in the District Plan, but amendments required by submitters have been shown in non-italics to distinguish them from the PC19 amendments
- Thirdly, deletions and additions are also used in amendments to PC19 recommended in this report - refer **Attachment G**.

Consideration of Submissions

Due to the large number of submissions the assessment in this report generally focuses on those submissions seeking amendments to the PC19 provisions. However the writer of this report has taken into account the level and type of support for the PC19 provisions as notified and support contained in the submission and further submissions.

Further submissions

14 further submissions were received five which did not refer to any original submission.

2. Submissions on Plan Change 19 as a whole

Submissions opposing PC19 as a whole are listed below with reasons for this opposition. Submitters who have also made the submissions on specific provisions have not been included in this table as these matters are addressed elsewhere in the report. Many of the submitters summarised as supporting PC19 as a whole have used common wording listing and supporting all the provisions, but in most cases any reasons for their support are focused on Lake Pukaki. Because the matters raised in the these general submission in effect relate to the provisions of PC19 they have not been assessed at this point, rather they are addressed in following assessments of particular PC19 provisions.

82	CSB Huntsman Boats	One reason for hydro scheme was to expand boating activities No evidence of boating having negative effect on the environment
47	MB Thomas	Measures are draconian and extreme and take away birthright enjoyed by New Zealanders District Councils should not be involved in managing commercial activities

		Worried that approach will end up with one company having monopoly
121	RG Lawrence	Lake is internationally known for its boating and fishing. Need power boats to cover distance for emergencies. If stop boats on this lake which lake is next?
130	S Gibbons	Lakes and rivers are for every New Zealander for recreational use
165	Forest and Bird	Reference to “wildlife and wildlife habitats” does not reflect responsibilities and functions of Council under RMA – no requested change
61	Dr CJ Minchim	Increasing pressure on natural resource o the Mackenzie mean protection of lakes is needed. Distinctive landscapes and skies and waterways are valued by New Zealanders. Time to protect them from noise and visual pollution
136	Mackenzie Guardians	Support but note that noise is not addressed through PC19

3. Rural Objective 8

Rural Objective 8 – Surface of Waterways Activities on or within Waterbodies

Recreational activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, recreational values, takata whenua values and general amenity values.

Reasons

- There is potential for recreational activities and associated vehicle use to have a number of adverse effects on waterways and riverbeds including:
 - noise
 - reduction in navigational safety
 - conflict with other recreationalists
 - degradation of river, lake and adjoining wildlife habitats
 - increased bank erosion caused by wave action or activity on the banks
 - water contamination from turbidity, exhaust fumes and human effluent
 - litter and other wastes in the area
 - disturbance to wading birds and other wildlife, especially during the breeding season (August to January inclusive)

It is appropriate in providing for recreation throughout the District that these adverse effects are minimised to enable environmental and recreational quality to be maintained.

Submissions

153	Meridian Energy	<p><i>Rural Objective 8 – Surface of Waterways Activities on or within Waterbodies</i></p> <p>In relation to activities being undertaken on or within water bodes to ensure that</p> <p>(a) <i>Recreational activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the nationally significant Waitaki Power Scheme recreational values, takata whenua values and general amenity values.</i></p> <p>(b) The special characteristics and significance of the Waitaki Power Scheme is recognized and provided for.</p>
155	Genesis Energy	As above plus
94	Alister and Haidee McCabe	Amend Explanation “It is appropriate in providing for recreation for individuals throughout the District that these adverse effects are minimised <u>where possible</u> to enable environmental and recreational quality to be maintained.

Assessment

Meridian Energy and **Genesis Energy** consider that the objective does not recognise the special characteristics of the Waitaki Power Scheme (WPS) or the potential for effects to impact the WPS infrastructure. They also raise the issue of reverse sensitivity effects. Unfortunately the submitters provide no detail or examples of these matters and concerns. Despite this I consider that it is appropriate to recognise at objective level the significance of lakes and rivers in the District as the basis of the Waitaki Power Scheme which is of national significance. I consider this reference should be in the list of potential adverse effects and should not be in a separate subclause. I also consider it unnecessary to refer to the Waitaki Power Scheme as being nationally significant as this matter is addressed elsewhere in the District Plan.

Meridian and Genesis have also requested inclusion in the Explanation to Objective 8 of the “*nationally significant Waitaki Power Scheme*” in the list of specific effects on the recreational use of waterways and riverbeds. At this stage as the specific level of effects suggested by Meridian and Genesis have not been detailed I do not recommend that their generic reference be included in this list of effects.

In their introduction to the submissions Meridian note that there is an inconsistency in PC19 in relation to what activities are being managed. They point out that much of the focus is on recreational activities but the rules control all activities on waterbodies. I agree with this comment and on this basis consider that Objective 8 should be amended so that it is not limited to recreational activities. However the wording suggested by Meridian is more in the nature of a policy rather than an outcome and so requires slight modification.

Genesis Energy also requests that the reference to activities “within” waterbodies be removed and replaced with “near” in headings and in the content of objectives, policies and rules. The submitter is correct that section 31(e) of the RMA which sets out the functions of territorial authorities refers to “the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes”. The operative District Plan used the reference to “on or within waterbodies” and this has been continued in PC19. It is my understanding that the reference to “within waterbodies” is intended to cover activities that are below the surface as occurs with many boats and activities such as commercial scuba diving and the like which are essentially the same in terms of the potential level of effect as those purely “on” the surface. From my understanding of the functions of regional councils under the RMA, this approach does not create any overlap of functions. I consider Genesis’s request to use the term “near waterbodies” will create uncertainty as to what is being referred to. I recommend that the reference to “within waterbodies” be retained as it incorporates an area of the waterbody that is effectively used by most activities that are on the surface of waterbodies.

A and H McCabe request minor amendments to the Explanation to Objective 8. It is considered that these additions are not necessary for this high level objective. However the matters raised by these submitters are addressed in detail in relation to Lake Pukaki.

Recommendation

Rural Objective 8 – Surface of Waterways Activities on or within Waterbodies.

~~Recreational~~ Activities being undertaken on or within the District waterways and riverbeds in a manner which avoids, remedies or mitigates potential adverse effects on conservation values, wildlife and wildlife habitats, public health and safety, the Waitaki Power Scheme, recreational values, takata whenua values and general amenity values.

4. Rural Policy 8A – Values of Waterbodies

Rural Policy 8A – Values of Waterbodies

To acknowledge the range of values associated with waterbodies within the District and to maintain or enhance those values through management of activities on or within waterbodies.

Explanation and Reasons

- As for Objective 8
- The District contains nine major rivers, seven notable lakes and numerous other waterbodies. The sensitivity of these waterbodies to impacts from recreational use varies considerably and needs to be managed to avoid loss of important natural and cultural values.

Submissions

94	Alister & Haidee McCabe	Seek additional policy <u>"To acknowledge the importance of recreational activities to individuals and the ability of these to continue to have this opportunity.</u>
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Assessment

Rural Policy 8A acknowledges the range of values of waterbodies which logically include their value as a recreational resource for individuals. It is not necessary therefore to create another policy for this purpose. However, the explanation to this policy concentrates on the impacts of activities. I therefore consider it would be appropriate to also acknowledge the recreational values in the explanation to Policy 8A.

Recommendation

Amend Explanation to Policy 8A as follows:

- The District contains nine major rivers, seven notable lakes and numerous other waterbodies many of which are valued for takata whenua values, recreation, habitat, conservation, general amenity and hydro power production. The sensitivity of these waterbodies to impacts from recreational use varies considerably and needs to be managed to avoid loss of important natural and cultural values.

5. General Submissions on Lake Pukaki provisions

In addition to submissions supporting or requesting amendments to Policy 8B– Lake Pukaki, there are a large number of general submissions on the Lake Pukaki provisions. Due to the large number of these submissions and many of these making the same points, only the reasons for opposing or supporting the Lake Pukaki provisions are listed below. In almost all cases these submissions focus on the prohibition of motorised non-commercial (recreational) activities on the lake:

Supporting

- Lake should be protected before it is over-used for commercial purposes
- In the interest of all New Zealanders that easily accessible places of beauty and tranquillity are preserved
- Excessive noise, water pollutions not only upset human enjoyment but wildlife also
- Many other places where water sport enthusiasts can enjoy themselves
- Many special places in NZ already over-commercialised

- Most important to have at least one large lake in the Mackenzie Basin free of motorised activity. Allow for non-motorised enjoyment of the Lake
- Presence of motorised boats will ruin very special vista up Lake Pukaki to the mountains
- Incredibly important to have places of natural beauty and peacefulness to visit as an escape from bustling cities
- There are few places in the world left like Lake Pukaki
- Motorised boats will do great harm to tourism as Mackenzie is all about the space, night sky, the tranquillity, the stunning quiet and beauty of the pristine lakes and spectacular Southern Alps
- Lake is a national treasure leading up to Aoraki/Mount Cook
- Lake is a site of cultural significance to Te Runanga o Ngai Tahu and a very spiritual lake to Waitaha.
- Other parts of the country where activities creating noise are strongly controlled.
- Lake Pukaki is the only lake without Didymo so vital it is kept free of it by limiting boats
- Lake is a spiritual lake for many thousands of ratepayers. The combination of the glacial fed lake and our highest mountain is incomparable
- Council works hard to make buildings invisible around the lake so incomprehensible to allow noisy diesel run craft
- Need to protect this very special place from noise pollution and other forms of pollution
- Okay to have kayakers and paddlers with a safety boat
- Noise of the hovercraft near Tekapo B was distinct, highly audible, disturbing and continuous for 20 minutes from the visitor centre
- Support commercial boating being either non-complying or prohibited
- Latest visits to the lake spoiled by the noise of the hovercraft
- Commercial activity (such as the hovercraft) pose a safety risk to recreational users and to water quality due to fuel leakage

Zones required

- Non-commercial motorised activities not be in the southern end of Lake Pukaki
- A restricted boating zone in front of the visitors centre would be appropriate
- Divide area into different zones where different activities can co-exist without compromising the scenic beauty we all wish to preserve
- If setting a line should be from the boat ramp up north
- Support some restrictions around the southern viewing area
- Create red zone near hydro structures with no craft or swimming, green zone (south west quadrant) swimming only and yellow zone for the remaining three quarters of the lakes allowing commercial and non-commercial craft

Opposing

- Allow recreational motorised boating
- No evidence of impact on Lake Pukaki and waterways from non-commercial motorised activities
- Impacts of motorised vessels on foreshore is not significant to erode the shore
- Should take into account that there are appropriate facilities on the east side of Lake Pukaki to launch boats
- Banning non-commercial motorised boats penalises those who operated on the Lake in the past in an environmentally friendly way.
- Propose banning jet propulsion vehicles (jet ski and jet boats) as these create the most noise disturbance and are the most likely to be launched from the foreshore rather than dedicated launch and retrieval facilities

- Ban all commercial boating
- There are no centres of population near the lake
- Aircraft noise would outweigh the noise of boats
- Non-commercial motorised boats are generally located well up the lake on the northern shore and largely out of site of the majority of motorists
- Lake is a significant size and current usage levels are such that they don't destroy its tranquillity or wilderness feel
- Having a motor on a boat enables boats to get out of trouble when surprise weather changes occur
- Banning recreational boats will have minimal effect on protecting or improving the unique natural quiet, beauty and tranquillity values but will have a significant effect on a few families who use the lake for recreational boating
- If lake was to shut for recreational use it would cause the other lakes to become further congested
- Boat ramps on both sides of the Lake created when lake was raised. Western side Boundary Stream ramp now covered in shingle but the eastern ramp near Tekapo B still able to be used. Ramps were to compensate, in part, families and community who lived, holidayed and farmed near the lake and who lost their existing use of the lake. Occasionally use is a disturbance to nobody.
- Lake Pukaki is a fantastic Lake and should be able to be enjoyed by all.
- Noise from outboard motors on Lake Pukaki is minimal as exhaust is below the surface
- A lot of people who live and work in the area enjoy the use of the lake
- Local users should be able to enjoy the lake, The effects are minimal and should not be discouraged
- I have lived by and recreated on Lake Pukaki for my entire life and draw great pleasure from this. No valid reason to cease this recreation. There is far more road noise than boating noise.
- Have boated on lake for 40 years and no one has complained
- Every New Zealanders right to boat on lakes and rivers
- The susceptibility of the Lake to nor-west winds will always limit the use of the lake, but those of us who live and work there highly value the lake
- Consider prohibition of specific engine/motor technologies proven to pollute waters e.g. 2 stroke engines
- Noise from hovercraft hugely offensive but small group of recreational users (mostly locals) who operate unnoticed on the lake through the summer months. No noisier than a truck passing

Assessment

Assessment of these more general submissions summarised above is undertaken in the assessment of submissions to each PC19 provision relating to Lake Pukaki.

6. Rural Policy 8B – Lake Pukaki

Rural Policy 8B – Lake Pukaki

To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding motorised activities on the Lake other than for essential activities.

Explanation and Reasons

- As for Objective 8
- The unique natural and cultural values of Lake Pukaki and its prominent position at the foot of Aoraki are highly valued locally, nationally and internationally. It is very important that these values, which include natural quiet and tranquillity, remoteness, grandeur and wildness, and the experience of these values, are not compromised by motorised boating on the Lake.

Submissions

139	James G Murray	Amend to allow private boating only
144	Fish & Game	<i>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding <u>commercial motorised activities on the Lake other than for essential activities.</u></i>
163	John Murray	Delete Policy 8B or allow trailer sailers on Lake Pukaki
94	Alister & Haidee McCabe	<i>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding <u>motorised activities by commercial operators on the Lake other than for essential activities.</u></i>
62	Arno & Nicola Bynevelt	<i>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding <u>commercial motorised and no-motorised vessel activities. Essential services and recreational be it motorised or non-motorised vessel activities are exempted. motorised activities on the Lake other than for essential activities.</u></i>
99	Bevan Newlands	<i>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding <u>commercial motorised activities on the Lake other than for essential activities.</u></i>
153	Meridian Energy	<i>To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki <u>and its function in relation to the Waitaki Power Scheme by avoiding motorised activities on the Lake other than for essential activities or those associates with the Waitaki Power Scheme.</u></i> Plus additional statement in the Explanation as follows: <u>Lake Pukaki is an essential part of the nationally significant Waitaki Power Scheme. The Lake is actively managed as part of this scheme and there is a range of infrastructure and activities associated with Waitaki Power Scheme that take place, in, on and around Lake Pukaki.</u>
155	Genesis Energy	As for Meridian above
22	David & Hillary Allan	Recreational boating should be allowed to continue, possibly create power boat area only
107	Martin & Penny Murray	Boating provided for as compensation

Assessment

Policy 8B – Lake Pukaki was developed in response to the strong and wide-ranging feedback from people concerned that the tranquillity of Lake Pukaki and the unrivalled setting it provides for Aoraki/Mount Cook and the Southern Alps would be compromised by motorised boating on the Lake. A significant part of this concern arose from the potential, and then actual, use of the lake for a commercial hovercraft operation. The operative District Plan does not require resource consent for commercial operations on its waterways. However, in many cases such as with Lake Tekapo, commercial operations require some form of land base where customers congregate and from which they can alight the watercraft. In Lake Tekapo these areas are usually land zoned Recreation Passive and resource consent is needed for this activity and associated structures. The hovercraft operation on Lake Pukaki did not need a land base as the craft simply travels across the land into the lake. While a resource consent was not required for the operation, all watercraft are subject to noise standards in the Section 14 of the Plan. The Council arranged for monitoring of the craft and it was found that it exceeded the Plans standards. I understand the operation has now been abandoned.

The Council received petitions and extensive requests to take some action to avoid any more activities on the Lake that would compromise its values. In particular the requests were for motorised boating on Lake Pukaki to be banned and/or noise standards in the Plan to be revised to set tougher standards thereby limiting potential disturbance from watercraft. The Council acted on these concerns by researching options. An Issues

and Options report was prepared and after Council adoption was made available to the public and submissions called for. The options included:

1. Amend Permitted Activities Outdoor Recreational Activities **rule 7.1.2** by removing the statement referring to commercial recreation on or within waterbodies being a permitted activity.

AND/OR

2. Create a new rule for commercial activities on or within water bodies recognising the sensitivity of the waterbodies to disturbance.

3. Reduce the character, intensity and scale limits for recreational activities with regard to activities on or within waterbodies i.e. cause consent to be required for a lesser scale of operation than is currently the case.

After receiving and considering all the feedback Council decided to take a strong stand to protect the special qualities of Lake Pukaki by specifying that all motorised boats, both commercial and non-commercial would be prohibited activities, that is they would not be provided for as permitted activities nor could a resource consent be applied for motorised boating. The exception to this is motorised boating for search and rescue, civil emergency, scientific research and monitoring and pest control purposes. Non-commercial non-motorised boating is a permitted activity and commercial non-motorised activities are non-complying activities. This approach reflects Policy 8B which focuses on addressing the primary concern on noise intrusion.

The submissions relating to use of the Lake Pukaki for various activities are extensive and are a combination of:

- those that support the PC19 approach of prohibiting all motorised craft on the lake other than those required for essential services,
- those that support the ongoing use of the Lake for non-commercial boating, both motorised and non-motorised, and
- those that support some form of zoning of the Lake to allow for recreational boating in more limited areas.

At the time of considering the most appropriate form of management of Lake Pukaki the Council did not have information about the recreational use of the Lake by locals or people from outside the immediate area. It is now clear from the submissions that greater recreational use is made of the Lake than was originally assumed. In particular submissions from the following residents of the area have been received advising of the use of the Lake:

<i>Bronwen Sian Murray</i>	<i>Martin & Penny Murray</i>
<i>Ross & Kate Ivey</i>	<i>Glentanner Station</i>
<i>Michael Bernard Thomas</i>	<i>Duncan Mackenzie</i>
<i>Daniel McKinlay</i>	<i>Marion Seymour</i>
<i>Paul Michael Kearns</i>	<i>Ross Ivey</i>
<i>Anthony Honeybone</i>	<i>Braemar Station</i>
<i>Alister and Haidee McCabe</i>	<i>Jack Torrie</i>
<i>Canterbury Outboard Boating Club</i>	<i>Jonty Wylaars</i>
<i>Helen Mary Ivey</i>	<i>James Murray</i>
<i>Blair McKinlay</i>	<i>Richard and Nicola McKerchar</i>
<i>Abbie McKinlay</i>	<i>Central South Island Fish and Game</i>
<i>Gregory miller</i>	<i>Nicole and Angus Lang</i>
<i>Megan Jane Simmonds</i>	<i>John Murray</i>

In addition many recreational boaters from outside the area use the Lake.

With regard to this boating, much of which appears to be power boats with outboard motors, these generally appear to be launched and retrieved on the eastern side of the Lake with access from Hayman Road. In particular there appears to be a well-used boat ramp near the Tekapo B station, north of The Pines camping area. However, a number either launch from the west side or boat across to the west side often in the Boundary Stream area.

A number of submissions suggested that some form of zoning of the lake be established which would confine motorised boats, in particular, to areas where they would create no or very limited impacts on the passive enjoyment of the Lake and viewing up the Lake to the Southern Alps and in particular to Aoraki/Mount Cook. To assist in the assessment of the issues associated with motorised boating use of the lake and the possibility of zoning the Council has commissioned visual and acoustic assessments. The visual assessment was undertaken by Jeremy Head and is attached in **Attachment D**. The acoustic assessment was undertaken by Marshall Day and is in **Attachment E**.

The Assessment of Visual Effects prepared by Jeremy Head assesses the potential effects of operating motorised surface water craft on Lake Pukaki. The landscape values of the lake area considered acknowledging that within in Rural zoning it is a Statutory Acknowledgement Area, its margins are a Lakeside Protection Area, the lake is within an ONL (Mackenzie Basin sub-zone) and is a Site of Natural Significance. Mr Head, who is familiar with the Lake and its setting, carried out site visits around its full extent. The primary purpose of the assessment was to determine where motorised surface water craft may be acceptable and to indicate this on a map. The map prepared by Mr Head is in Appendix 1 of his report and identifies a recommended area of the lake where motorised surface water craft could be permitted. The map also identifies formed and unformed viewing areas from which the Lake and the Southern Alps are viewed, potential watercraft lake access points, photo viewpoints and areas where views of the Lake are restricted. The area chosen as being suitable is on the eastern side of the lake from just below the Tekapo B power station up to Landslip Creek at the northern end. The outer edge of the area is a view line from Morgans Island through to the summit of Aoraki/Mount Cook. The widths of this area range from 500m to 2km.

The reasons why motorised boating is considered more appropriate in this area include practical considerations relating to access and use of the area by boaties as well as the reduced visibility of long views up the Lake to the Southern Alps, as compared to the western side of the Lake. These reasons are listed in paragraph 24 of the report as follows:

- Broad views to Aoraki Mount Cook and the mountain backdrop to the lake are infrequent from Hayman Road due to topography, the winding nature of the road and taller vegetation (or a combination of all three).
- Hayman Road is often at an elevation that is similar to the lakeshore and so physically accessing the lake appears possible.
- The land between Hayman Road and the lake largely under a 'Lakeside Protection Area' status appears to be little used by farmers and may not unduly affect farm activities or stock capacity.
- Hayman Road is metaled, and so traffic speeds are lower which means leaving or accessing the road towing boats is less dangerous than it would be when adjacent to a state highway for example.
- Hayman Road often runs close to the lake and so along these stretches, forming physical access points to the lake would be short and relatively inexpensive.
- Hayman Road is physically connected to Tekapo via Braemar Road which would provide an alternative access for 'boaties' coming from the direction of Tekapo, reducing pressure on SH8.
- The visibility of motorized water craft moving about and up and down the eastern shoreline would be less visible from the west and SH80, as the wooded backdrop and

indented shoreline provide a degree of visual 'complexity' to the scene where the presence of surface water craft would be visually better absorbed.

The report then provides some explanatory points regarding the location and extent of the 22km long "watercraft area" as follows:

- The lake is very large and so the extent of the watercraft area needs to be self-managing by the operators on the lake – in this regard obvious landforms are located at either end of the watercraft area (the summit of Aoraki Mount Cook and Morgans Island). A line is 'drawn' between the two landmarks and all water craft must keep to the east of this line and between Landslip Creek and The Pines. It is not considered appropriate or practical to provide a line of buoys to demarcate this area.
- The watercraft area must be sufficiently separated from the southern end of the lake to avoid adverse visual effects that would otherwise impact on several popular scenic viewpoints.
- The watercraft area must be sufficiently separated from the western side of the lake to avoid adverse visual effects that would otherwise impact on several popular scenic viewpoints.
- The watercraft area must be large enough to satisfy demand while also satisfying the above parameters

I consider that Policy 8B and the associated prohibited activity rule for all motorised activities on Lake Pukaki to be onerous. I understand and agree with the many descriptions of the specialness of the experience of Lake Pukaki and viewing up to Aoraki/Mount Cook and the Southern Alps and the strong desire to protect this experience from disturbance. However, prohibiting all motorised boating on the Lake is a very strong response to this potential disturbance. It appears that current recreational use has not caused a significant problem to date, with some submitters stating or implying that they are not even aware that the Lake is used for boating at all. The loss of the ability of many people, including many residents of the area, to enjoy and use motorised boats is a significant cost to the community. Because of this cost and because the Lake is very large (in the order of 130 square kilometres) I consider it is appropriate to consider options which would enable some non-commercial (recreational) motorised boating provided that the fundamental experience of the Lake is not compromised.

With regard to the area identified by Jeremy Head as suitable for recreational motorised boating, I generally consider that the matters he has taken into account in this identification are appropriate. However the positions from which he has determined unfettered views up the Lake should be retained extend up the western side of the Lake to Glentanner. To retain these views without any motorised boats has resulted in his recommendation to limit non-commercial motorised boating to the eastern side of the lake extending from The Pines to Landslip Creek. Mr Head states that the western shoreline has a direct visual relationship with the Lake and Aoraki Mount Cook and is readily accessible by tourists from SH80. In his opinion if motorised watercraft extend too far towards the western shoreline there will be "*an unnatural distraction introduced to the composition and appreciation of the view which at times approaches sublime*".¹

Kate McNab, a planner with Mackenzie District Council, has contacted a number of the submitters who sought some type of zoning to provide for recreational motorised boating, to ascertain where they launch their boats from and what area of the lake they use. A large proportion of these submitters launch at or in the vicinity of Tekapo B. Several boat around or near Morgan Island, a more limited number only boat in the northern end of the Lake and others occasionally cross over to the west side. Some launch from and boat near the western lakeshore. It appears then that both the eastern and western sides of the upper sections (from Tekapo B

¹ Paragraph 14, Assessment of Visual Effects, Jeremy Head

northwards) of the Lake are used for recreational boating and that the boating is relatively low key and involving small numbers of boats. The issue that this raises is that Mr Head's recommended area is limited to the eastern side. If recreational boating was confined to this recommended area then boats would not be able to launch from the west shore or boat in the western area, or even boat across to the recommended area.

Marshall Day Acoustics have undertaken a desktop assessment with the purpose of identifying boating areas where noise would be acceptable refer **Attachment E**. For the purposes of PC19 they were asked to take a very conservative approach by adopting inaudibility as the standard to be met in determining acceptable boating areas. As there is no internationally recognised standard for noise being inaudible they have adopted the approach that the maximum motorised watercraft noise level (L_{AFmax}) shall be 10 decibels below the ambient background sound (LA_{90}) at the scenic viewing locations identified in Jeremy Head's Appendix 1. On the basis of this assessment in summary they conclude that:

- Vessels complying with the existing Rule 2.3.4 in Section 14 of the Mackenzie District Plan (i.e. 90 dB L_{AE} at 25metres) will not comply with the inaudibility criteria at any location on Lake Pukaki.
- In Figure 2, we have provided three potential inaudibility zones for motorised watercraft that can comply with the alternative criteria of 65, 70 or 75 dB L_{AFmax} at a distance of 25 metres. However, we do not have sufficient data to confirm how many motorised water craft that will potentially use the Lake, are capable of complying with these noise limits. Further noise level investigation will be required.
- Should one of the proposed limits be adopted, an appropriate rule should be developed to describe the measurement and certification of vessels wishing to use Lake Pukaki. As a starting point, an example of a suitable methodology is contained within Rule 36.8 of the Queenstown Lakes District Plan (noting that numerical noise limits should be modified).
- If the assessment criterion were to be relaxed from inaudibility to one where the maximum noise level is equal to the background ambient sound level vessels complying with the current noise standard for watercraft would be able to use the area of the Lake equivalent to the further right image in Figure 2 i.e. 65 dB L_{AFmax} at 25m.

The red hatched areas in Figure 2 of the Marshall Day report indicate areas where motorised boating may be acceptable in terms of noise produced on the basis of these boats having a maximum noise level of 65, 70 or 75 dB L_{AFmax} at 25m. All these assessments indicate that boating should be excluded from at least the southern third of the Lake. The major difference between the three potential motorised watercraft areas proposed by Marshall Day in Figure 2 is the extent to which they extend south down the lake. In addition the 65 dB area includes a wider area on the eastern side of the Lake as compared to the other two options and to the area proposed in the Assessment of Visual Effects by Jeremy Head.

Having considered all the issues raised in submissions relating to motorised craft on Lake Pukaki and the options contained in the visual effects and noise effects assessments it is my opinion that some form of zoning of the Lake should occur. This zoning would provide an area where non-commercial motorised boating would be a permitted activity and beyond this area non-commercial motorised would remain a prohibited activity. Of note there was almost complete agreement amongst all the submitters that commercial motorised activities should remain a prohibited activity.

The key issue then is the extent of the area for permitted activity non-commercial motorised boating. As a minimum I consider it should include the area proposed by Jeremy Head along the eastern lakeshore. I also consider that it would be unreasonable to prohibit any launching and use of the western lakeshore area. My reason for this is that the expected number of craft launching and using this side of the Lake is relatively small based on the location and questioning of submitters. While one noisy boat in the wrong place at the wrong time could spoil the experience of a person on the western lakeshore this would affect less people than if it were to occur near the visitor centre (marked as Viewing location 3 on the Marshall Day maps in Figure 2).

On the basis that it is appropriate that a non-commercial motorised boating area should extend to the western lakeshore the southern extent of such an area needs to be determined. The Marshall Day potential areas take into account the experience of people at Viewing locations 1 and 2 based on different model noise levels. The most generous area is based on motorised boating noise being 65 dB L_{AFmax} at 25m and is a semi-circular shape commencing approximately 3km north of Boundary Stream and coming down the Lake slightly west of Jeremy Head's recommended area. I consider however that a larger area is justified and more practical based on historic usage. A number of submitters point out that two launching ramps were provided for recreational use when the Lake was reside the second time; one at Tekapo B and one at Boundary Stream. The latter ramp is now covered in shingle but potentially could come into use in the future. I suggest that a line across the Lake just below Boundary Stream should form the southern boundary of the permitted area for non-commercial motorised boating through to the area proposed by Jeremy Head. This line could either be defined in terms of latitude ($44^{\circ} 04mins$ south) in terms of New Zealand Geodetic Datum (1 17 000mN). I understand that boaties general use latitude and longitude. The proposed area is contained in the recommended amendments to PC19 contained in **Attachment G**.

As part of providing for non-commercials motorised activity that has an acceptable level of effect I also recommend that noise standards applying to watercraft be reviewed with view to setting a lower level for Lake Pukaki reflecting its particular sensitivity to noise intrusions. This lowering of the noise level will enable an area or areas to be identified for motorised recreational boating without compromising the unique values of quietness and tranquillity associated with Lake Pukaki and its environs. While ideally amendment of the watercraft noise standard for Lake Pukaki should occur as part of consideration and decisions on PC19, Marshall Day have indicated further work is needed to refine the most suitable noise parameter and level. As such I consider it is acceptable that this review could be undertaken as part of the review of district wide provision in the District Plan and that the risks of not acting on this matter at this stage are not significant.

On this basis I recommend the Policy 8B is amended to acknowledge that commercial and non-commercial motorised activity are to be managed differently with commercial being prohibited throughout the lake and non-commercial being prohibited in the southern and southwestern sections and permitted on the remainder of the Lake. The wording of this amendment is set out in the **Recommendation** below.

Meridian and Genesis request specific acknowledgement of the Waitaki Power Scheme in Policy 8B. The reasons given for the requests are:

- The policy describes the environment as if the power scheme does not exist and the management of Lake Pukaki did not form part of the operation of the Scheme
- Does not achieve integrated management of natural and physical resources
- Failure to recognise the WPS ignores this significant activity with respect to Lake Pukaki which could impacts consideration of resource consents

While it is accepted that management of activities on waterways in the Plan is not only about recreational activities, Policy 8B is to do with protecting the experienced natural values of the lake to the extent that they may be compromised by activities on the Lake. There is no evidence to suggest that these activities compromise the operation of the WPS except possibly boating, swimming etc. close to the actual structures. This safety issue is managed by ECan's Navigational Bylaws which prohibit these activities in close proximity of the WPS structures. I therefore consider there is no need to include reference to protecting the functioning of the WPS in this policy as there are no risks that are not addressed. With regard to the national significance of the Waitaki Power Scheme this is most appropriately recognised elsewhere in the Plan along with all elements of the Scheme.

Meridian and Genesis also request reference to their use of the Lake being added to this policy after the words "essential activities". As I consider later in this report, in my opinion it is appropriate to specifically include

boating associated with the WPS as a permitted activity on the various lakes and rivers associated with the scheme. This boating activity in my opinion could be reflected in the term essential services so I do not consider it needs to be specifically referred to in Policy 8B. I recommend that this submission be rejected.

Recommendation

Rural Policy 8B – Lake Pukaki

To protect the unique natural quiet, beauty and tranquillity values and experience of Lake Pukaki by avoiding commercial motorised activities on the Lake other than for essential activities and by restricting non-commercial motorised activities, other than essential activities, to the north and eastern areas of the Lake.

7. Rural Policy 8C – Commercial Activities

Rural Policy 8C – Commercial Activities

To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent.

Explanation and Reasons

- As for Objective 8
- The potential for greater frequency and intensity of use associated with commercial activities, as compared to non-commercial activities, justifies these activities requiring resource consent. This process enables the Council to assess the impacts (including cumulative impacts) of any proposal on the waterbodies and adjoining land and recognises that it is not possible to anticipate the form and effects of future commercial activities.
- It is considered unreasonable and impractical to subject non-commercial activities to control except where special values of a waterbody and its surrounds justify control or prohibition

Submissions

148	Canterbury Regional Council	<i>To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent, <u>except for commercial activities on or within the waterbody of Lake Pukaki.</u></i>
155	Genesis Energy	<i>To avoid, remedy or mitigate the adverse effects of commercial activities other than any activities associated with the Waitaki Power Scheme <u>through assessment by way of resource consent.</u></i> Amend Explanation by adding: A number of the lakes and rivers in the District are an essential part of the nationally significant Waitaki Power Scheme. The waterbodies are actively managed as part of <u>this scheme and there is a range of infrastructure and activities associated with the Waitaki Power Scheme that take place in, on and around these lakes and rivers.</u> Commercial activities associated with the Waitaki Power Scheme are not managed <u>through this policy.</u>
153	Meridian Energy	Same as for Genesis above

Assessment

The submission of **Environment Canterbury** raises a legitimate concern with the current wording of this policy in that it does not reflect that commercial operations on Lake Pukaki are a prohibited activity and so no resource consent can be applied for these operations. This should be reflected in the policy.

The submissions of **Genesis and Meridian** seek specific recognition in this policy so that their boating activities associated with the operation, maintenance; upgrading and development of the Waitaki Power Scheme are not restricted. I consider that it is unlikely that people would equate the operations of major hydro power scheme within the Mackenzie District to be a commercial activity. On this basis it is considered unnecessary to alter this policy as requested. I note that these submitters have also requested changes to the rules providing for their activities on the lakes, which are considered later in this report. These requests are recommended to be accepted and so will address their concerns about avoiding the need for resource consent for activities they already undertake.

Recommendation

Amend Policy 8C as follows:

To avoid, remedy or mitigate the adverse effects of commercial activities through assessment by way of resource consent, except for commercial activities on Lake Pukaki which are prohibited.

8. Rural Policy 8D – Church of the Good Shepherd

Rural Policy 8D – Church of the Good Shepherd

To manage commercial activities on Lake Tekapo in the vicinity of the Church of the Good Shepherd in order to maintain a level of quietness and tranquillity in keeping with the special character of the Church and its surroundings.

Explanation and Reasons

- As for Objective 8
- The Church of the Good Shepherd at Lake Tekapo Village is of particular cultural and spiritual significance and its special character as a place of stillness and meditation is an essential part of the local and visitor experience. It is important to manage activities in the vicinity of the Church that have the potential to compromise this character and the needs of the Church community.

Submissions

139	James G Murray	Prohibit all commercial activities within a given distance of the Church
160	Walter & Zita Speck	Extend managements of commercial activities to whole of Lake Tekapo. Set noise levels/guidelines re visual pollution, disturbance and advertising on watercraft

Assessment

J G Murray requests that all commercial activities on water and land within a given distance of the Church of the Good Shepherd be prohibited. Rural Policy 8D provides a specific basis for consideration of applications for commercial activities on Lake Tekapo with regard to impacts on the functioning of the Church. In developing PC19 the Council specifically looked into the issue of noise and visual impacts of watercraft and commercial operations on the Church. They noted that the Navigational Bylaw specifies a 5 knot limitation on craft within 250m of the lake shore and that there is a large area in the south east corner of Lake Tekapo over which there is a 5 knot control. This area is immediately to the east of the Church. It was expected that these speed limits would achieve a level of noise that may be acceptable in relation to the functioning of the Church. In relation to commercial operations, these are proposed to be a discretionary activity on Lake Tekapo. Detailed assessment of any proposal will therefore be undertaken by the Council and this will be informed by Policy 8D which spells out the importance of retaining a level of quietness and tranquillity in the area.

The Council noted that due to the location of the existing launching facilities on the Tekapo River that it is not realistic to establish a significant prohibited area around the Church. With regard to the suggested prohibition of commercial operations within a certain distance from the Church, if this is considered appropriate for a particular proposal, this can be achieved through consent conditions and conditions on the hours of operation.

W and Z Speck request extending the management of commercial activities to the whole of Lake Tekapo. In fact the PC19 rules specify that all commercial activities on this Lake, whether motorised or non-motorised, require resource consent so no change is needed. They also ask that there are limits on noise, litter etc. There is an existing maximum noise standard for watercraft in the District Plan in Section 14 and the consent process provides the Council with power to set conditions on all matters relating to the impacts of commercial operations including noise and hours of operation.

Recommendation

No amendment to Rural Policy 8D

9. Rural Policy 8E – Effects on Wildlife and Wildlife Habitats

Rural Policy 8E A – Effects on Wildlife and Wildlife Habitats Recreational Use Of Riverbeds And Waterbodies

To avoid, remedy or mitigate the adverse effects of the recreational use of riverbeds and waterbodies (in particular the use of off-road vehicles and power boats) on wildlife and wildlife habitats.

Explanation and Reasons

- As for Objective 8
- The braided riverbeds of the Tasman, Dobson, Hopkins, Ohau, Tekapo, Pukaki, Cass, Godley and Macauley rivers are important breeding habitats for many important and threatened species. It is important that care is undertaken during the breeding season as disturbance of parent birds leaves eggs and chicks unattended and therefore extremely vulnerable to predation and cold temperatures.
- Off-road vehicles can inadvertently run over eggs and chicks.
- Lake Alexandrina and Lake McGregor form part of a wildlife refuge that was initially established in 1899, and re-gazetted in 1957 under the Wildlife Act 1953. At this time restrictions were also gazetted limiting boats to those 'wholly propelled by oars or paddles' to prevent disturbance of wildlife habitats and bird breeding areas.
- The predominately single thread braided river channels of the Opihi and Opuha rivers are widely utilised by trout and salmon for spawning. During the spawning season (April to September) eggs and fry buried in the riverbed gravels are particularly susceptible to disturbance from motorised boats.

Implementation Methods

- To promote the Braided River Care Code.
- To promote continued awareness of the wildlife refuge status of Lakes Alexandrina and McGregor, and to restrict accommodation use of the lake.
- To prevent the use of motorised craft upstream of the confluence of the Opihi and Opuha rivers, between 1 April and 30 September, excluding the Opuha Dam Zone.
- To encourage Central Government and the Canterbury Regional Council to control activities on the surface of water.
- Council will work with agencies such as the Department of Conservation, Fish and Game Council, the Royal Forest and Bird Society, to identify breeding areas of braided riverbed birds and to investigate mechanisms to control or avoid disturbance of birds, particularly during the breeding season.

Environmental Results Anticipated

- Increased awareness of the impact of recreation activities on the breeding habitats of wading birds and other indigenous fauna.

- The continued protection of Lakes Alexandrina and McGregor as a wildlife refuge and associated restrictions

Submissions

94	Alister & Haidee McCabe	<i>To avoid, remedy or mitigate the adverse effects of the commercial recreational use of riverbeds and waterbodies (in particular the use of off-road vehicles and power boats) on wildlife and wildlife habitats.</i> Add to Explanation and Reasons as flows: <i>Off-road vehicles can inadvertently run over eggs and chicks requiring specific areas of protection to be identified so vehicles can avoid these.</i>
148	Canterbury Regional Council	Request removal of the 4 th bullet point of the Implementation Methods to avoid duplication with ECan's navigational functions and to reflect that navigational bylaws can now only be based on addressing safety and not effects on wildlife
138	Hermann Frank	Requests addition to Implementation Methods as follows: <u>To prevent off-road vehicles and other recreational users using riverbeds with threatened birds breeding habitat in the months August to January</u> Add Environmental Result Anticipated as follows: <u>No or only minor adverse effects of recreational activities on breeding habitats of threatened birds and on other indigenous fauna.</u>
162	Opuha Water Limited	<i>To avoid, remedy or mitigate the adverse effects of the recreational and commercial use of riverbeds and waterbodies (in particular the use of off-road vehicles and power boats) on wildlife and wildlife habitats.</i>
13	Gillian Pollock	Amendment to ensure motorised vehicles and dogs are banned from braided river beds during nesting season of native birds
144	Central South Island Fish and Game	Seek additional explanation of values of the rivers for spawning and incubation

Assessment

Opuha Water Limited and **A & H McCabe** both seek that commercial activities be included in this policy addressing adverse effects of recreational use of riverbeds. This is an appropriate addition to the policy as commercial activity on riverbeds and waterbodies clearly has the potential to impact wildlife. The proposed wording of Opuha Water Ltd is preferred as it covers both recreational and commercial use.

ECan request removal of Implementation Method "To encourage Central Government and the Canterbury Regional Council to control activities on the surface of water", as the law has changed regarding the basis for regional councils navigation bylaws. These bylaws are now to be for safety purposes only. It is appropriate therefore that reference to the Canterbury Regional Council control of the surface water be removed from this policy which seeks to avoid damage to wildlife.

A and H McCabe, G Pollock and H Frank want stronger statements preventing off road vehicles from areas where they could damage nesting birds and their nests. The current Implementation method in the District Plan is for the District Council to promote the Braided River Care Code as they do not have the power to enforce this code. Accordingly it is not recommended to amend this provision.

Central South Island Fish and Game seek greater clarification of species, spawning and incubation in the Opihi and Opuha Rivers. I consider these additional comments to be worthwhile.

Recommendation

1. Amend Rural Policy 8E as follows:

To avoid, remedy or mitigate the adverse effects of the recreational and commercial use of riverbeds and waterbodies (in particular the use of off-road vehicles and power boats) on wildlife and wildlife habitats.

2. Delete Implementation Method 4th bullet point

3. Amend Explanation 5th bullet point as follows:

- The predominately single thread braided river channels of the Opihi and Opuha rivers and the single confines of the South Opuha and North Opuha are widely utilised by trout and salmon for spawning, incubation and juvenile rearing. The Opihi and Opuha rivers contain brown trout and salmon (spawning season 10 April-30 September) and the North and South Opuha contain brown and rainbow trout (spawning 1 May – 30 November). During the spawning season (April to September) eggs and fry buried in the riverbed gravels are particularly susceptible to disturbance from motorised boats.

10. Rural Policy 8F - Structures

Rural Policy 8FB - Structures

To ensure that the location, design and use of structures and facilities, within or near waterways are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the waterways are avoided or mitigated.

Explanation and Reasons

- As for Objective 8
- Structures which intrude over or through water which enable greater recreational use of the water can thereby create a potential for conflicts between different recreationalists and cause problems associated with exceeding the carrying capacity of the existing shore vegetation and facilities.
- Structures can create safety problems for on-water users.
- Structures can significantly alter the character and visual appearance of riparian areas and waterways.

Submissions

155	Genesis Energy	Delete Policy 8F
153	Meridian Energy	Delete Policy 8F
159	Department of Conservation	<i>To ensure that the location, design and use of structures and facilities, within or near waterways are such that any adverse effects on visual qualities, safety, indigenous habitat and conflicts with recreational and other activities on the waterways are avoided or mitigated.</i>

Assessment

The **Department of Conservation** request that adverse effects on indigenous vegetation be included as a matter to be taken into account in assessing the appropriateness of structures in waterbodies such as jetties and boat ramps. I consider that is an appropriate addition given the important ecological values on or adjoining many waterbodies within the District.

Genesis and Meridian both request deletion of this Policy along with significant modification of the rules relating to structures. The main reason they give for deletion of Policy 8F is that activities such as jetties and

boat ramps are already managed by the Canterbury Land and Water Regional Plan. Consent is only required from ECan for a jetty because it involves disturbance to the bed of the waterway associated with the support structure or because the structure may impede flood flows. No consideration is given to the land use implications or the effects on use of the waterbody that may be result of establishment of a new jetty. These could be in the form of increased traffic and a lack of off-road parking or the activity compromising recreational values. The approach of district plans dealing with structures in inland waterways for these reasons has been the norm for many years. For these reasons I recommend that Policy 8F Structures should not be deleted.

Recommendation

Amend Rural Policy 8F to read:

To ensure that the location, design and use of structures and facilities, within or near waterways are such that any adverse effects on visual qualities, safety, indigenous habitat and conflicts with recreational and other activities on the waterways are avoided or mitigated.

11. Rural Policy 8G – Regulations

Rural Policy 8G - Regulations

To seek the continued administration and control of navigational safety matters principally through regulations or bylaws. equivalent mechanisms under the Harbours Act and its successor.

Explanation and Reasons

- As for Objective 8
- Controls placed on water based recreational activities through bylaws and similar mechanisms ~~by the Water Recreation Regulations 1979~~ are considered to enforce suitable controls with respect to navigational safety.
- Current speed ~~upliftings~~ through Navigational Safety bylaws ~~of the Water Recreation Regulations~~ within the District are considered appropriate to allow for certain recreational activities on the District's waterbodies and should therefore be retained.

Submissions

155	Genesis Energy	Replace with <u>To manage the control of navigational safety matters through:</u> a. <u>seeking the continued administration and control through regulations and bylaws and</u> b. <u>avoiding conflict between water craft and the national significant infrastructure associated with the Waitaki Power Scheme</u>
153	Meridian Energy	As above
148	Canterbury Regional Council	Policy: To seek the continued administration and control of navigational safety matters principally through support the Canterbury Regional Council in implementing navigational safety regulations-or and bylaws. . Explanation: <u>All navigational safety consideration for</u> Controls placed on water based recreational <u>and commercial activities are enforced by the</u> Canterbury Regional Council through navigational safety regulations and <u>bylaws.</u> bylaws and similar mechanisms are considered to enforce suitable controls with respect to navigational safety.

Assessment

Environment Canterbury seeks a clear statement of the respective responsibilities of the Regional and District Councils in relation to the matter of implementing navigational safety. This responsibility belongs to the Regional Council and this is achieved through their Navigational safety regulations and bylaws. I consider their suggested changes to this policy and its explanation are worthwhile as they make this point very clearly.

Genesis and Meridian, perhaps surprisingly, seek amendments to this policy which indicate that the District Council should manage water navigational safety including avoiding conflict between watercraft and the Waitaki Power Scheme structures. As these matters are the responsibility of the Regional Council it is recommended that this submission be rejected.

Recommendation

Amend Policy 8G – Regulations as follows:

To seek the continued administration and control of navigational safety matters principally through support the Canterbury Regional Council in implementing navigational safety regulations and bylaws.

Explanation and Reasons

All navigational safety considerations for Controls placed on water based recreational and commercial activities are enforced by the Canterbury Regional Council through navigational safety regulations and bylaws. ~~bylaws and similar mechanisms are considered to enforce suitable controls with respect to navigational safety.~~

12. Meridian Energy Limited and Genesis Energy Limited

Meridian Energy Limited (#153) and Genesis Energy Limited (#155) have lodged almost identical submissions requesting a wide range of changes to Plan Change 19. Several of these requests have been assessed in the above consideration above of Objective 8 and its policies. The remainder of their requests relate to a new policy, definitions and amendments to the PC19 rules, other than the rules relating to the Ophi and Opuha Rivers. Rather than assessing these requests under each of the PC19 provisions it is considered appropriate to address them as a package. The requests and the reasons for these are set out below

	Proposed new policy	
1	<p><u>To recognise and provided for the nationally significant renewable energy generation and transmission activities of the Waitaki Power Scheme and the special features of the activity including:</u></p> <p>a. <u>the need to locate the activity where the renewable energy resource is available</u></p> <p>b. <u>logistical or technical practicalities associated with development, upgrading, operating or maintaining the activity</u></p> <p>c. <u>the location of existing structures and infrastructure and provide for its development, operation, maintenance and upgrading</u></p>	<p>Concerned that generators activities will be caught by these PC19 rules particularly structures.</p>
	Proposed New Definitions	
2	<p>Waitaki Power Scheme Activities: means the act of managing and using natural and physical resource for generation of electricity and ensuring the safe and efficient performance of the lawfully establish Waitaki Power Scheme. It includes conducting and /or undertaking work, activities and the development and operation of activities associated with the generation of electricity. This includes erosion work necessary to keep the Waitaki Power</p>	

	Scheme operating at an efficient and safe level and includes upgrading or renewal of machinery, buildings, plant, structures, facilities, works or components.	
3	Waitaki Power Scheme: means the nationally significant electricity generation activities in the Waitaki River Catchment including works, facilities, components, plant and activities undertaken to facilitate and enable the generation of electricity from water. It includes	
4	Waitaki Power Scheme Management Areas means land within the following areas: <ul style="list-style-type: none"> a. the existing footprint of the Waitaki Power Scheme b. Core sites associated with the Waitaki Power Scheme c. Areas covers by an operating easement associated with the Waitaki Power Scheme 	
5	Core Sites: means land owned by Genesis Energy or Meridian Energy that is managed for hydro generation purposes associated with the Waitaki Hydro Scheme	
6	Operating Easement: means land Genesis Energy or Meridian Energy has an operating easement over. The purpose of this easement is to provide for activities to be undertaken by Genesis Energy or Meridian Energy as part of the management of the hydro facilities associated with the Waitaki Power Scheme.	
Proposed new rules		
7	Add a new Permitted Activity for Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers (7A1.1) and for Lake Pukaki (7A.2.1) as follows: <p style="margin-left: 40px;"><u>The use of motorised and non-motorised craft related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.</u></p>	As rules in 7A are not expressly related to recreation it is necessary to have specific provision for activities associated with the WPS
8	Add the following conditions to Permitted Activity non-commercial motorised and non-motorised activity and craft on waterways used for accommodation on Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers (7A1.1 b & c) and for Lake Pukaki (7A.2.1.a & b) as follows <p style="margin-left: 40px;"><u>provided the following conditions are met:</u></p> <ul style="list-style-type: none"> a. <u>The activity is not within 500 metres from any tailrace forming part of the Waitaki Power Scheme</u> b. <u>The activity is not within 200 metres from any intake or spillway structures forming part of the Waitaki Power Scheme</u> c. <u>The activity is not within 200 metres from any other structures forming part of the Waitaki Power Scheme</u> 	Conditions needed to ensure public safety. Will ensure that reverse sensitivity effects of recreation and commercial activities on the WPS are appropriately managed. Restrictions will better provide for the safety as people will be separated from the infrastructure.
9	Add a new Permitted Activity for Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers (7A1.1) and for Lake Pukaki (7A.2.1) as follows: <p style="margin-left: 40px;"><u>Any structure of activity required for Waitaki Power Scheme Activities within the Waitaki Power Scheme Management Area</u></p>	Meridian and Genesis activities and structures could theoretically get caught by rules as could be considered commercial or non-commercial. Rules re structures are uncertain and to no give effects to Chapter 16 of CRPS or the NPSREG
10	Delete rules 7A.1.2b and 7A.2.2.b providing Jetties and boat ramps as a Discretionary Activity	Activities such as jetties and boat ramps are managed by CRC and regulatory approach in

		Land and Water Regional Plan so rules are unnecessary.
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Assessment

Point 7 – I consider this request for boating activity required for the operation of the Waitaki Power Scheme (WPS) to be provided for as a permitted activity should be accepted. It is expected that this activity will be relatively limited but necessary to carry out the generators’ functions over time. Inclusion of this new clause will clarify that boating required by generators to operate the Waitaki Power Scheme is permitted on Lakes Tekapo, Benmore, Ruataniwha and Pukaki and their associated rivers.

Point 1-6 & 9 – This request is for any structure associated with WPS to be a permitted activity within the WPS Management Area (for which a definition is proposed). This request raises the issue of how the WPS is provided for within the Mackenzie District Plan. Currently the WPS is provided for in the Rural Zone rules as a Scheduled Activity in Rule 13. This rule specifies Permitted, Controlled and Discretionary Activities are those contained in Schedule A of the Rural section of the Plan. This Schedule (which was provided to the Council by ECNZ (Electricity Corporation of New Zealand) in preparation of the District Plan lists permitted, controlled and discretionary activities and refers to a series of three cadastral plans. The legend on these plans refers to a shaded area as “Mackenzie District Council Areas to be scheduled for Hydro –Electric Activities”. The originals of these plans were shaded blue and are in Davie Lovell-Smith’s office building which was evacuated after the February 2011 earthquake. These plans cover the canals, dams and associated areas and the rules provide for hydro generation activities and structures to continue and be refurbished and upgraded as a permitted activity except where there is a significant external modification. Greater modifications are controlled activities and modifications or new structures that will result in an increase in the maximum operating level of the lake are discretionary activities.

In these circumstances it is considered that it would be confusing to also provide for hydro-generation structures in the lakes and rivers in the surface of water controls set out in PC19, as potentially both sets of rules would apply. To date the existing controls in the Rural zone Scheduled Activity provisions have been used for works proposed by the generators and I am not aware of particular issues with these. If there is an issue I consider the most efficient way to address this matter is to include a consequential amendment in the Rural Zone Scheduled Activities rules stating that those rules take precedence over other rules, or stating that the rules relating to activities on or within waterbodies do not apply within the areas identified in Schedule A to the Rural zone. DoC does not oppose the intent of these requests but asks that any provision ensures the operational activities are managed appropriately.

The wider issues relating to how hydro generation activities within the Mackenzie District are provided for in the District Plan are best addressed as part of the full review of the District Plan rather than being dealt with in a piecemeal way. This review would include consideration of whether a special purpose zone should be created, whether the controls should fall within the utilities chapter or whether the controls should be in the Rural zone. On this basis I do not consider it is appropriate to include the requested new policy (item1) or proposed definitions (items 2-5). I acknowledge that there is reference to the “Waitaki Power Scheme” in the rule providing for boating activity (item 7) which I recommend be accepted, however I do not consider that there would be uncertainty as to what is meant by the term such that it needs to be defined in the Definitions Section of the Plan.

Item 8 – The submitters request setbacks of activities from structures associated with the WPS on the basis of achieving safety for boaters and to avoid “reverse sensitivity” effects. The safety of people using watercraft on lakes in rivers is something that is managed through Environment Canterbury’s Navigation Safety Bylaws 2016

and Controls. This bylaw and the plans attached to the bylaw identify areas where boating, swimming or diving is not to occur. These are generally shown as red semicircles adjoining a particular facility – refer **Attachment C**. There is one of these associated with Lake Pukaki Dam and with the outlet from Tekapo B station into Lake Pukaki as well as around the Lake Tekapo intake and the dam on the Tekapo River. Environment Canterbury has confirmed that these areas generally have a radius of 200m and that these areas were requested by the generators. It is my estimate that the Pukaki Dam area on the plans has a radius of at least 250m and the remainder have a radius of approximately 200m. Given these controls I consider it is unnecessary and inappropriate for the District Plan to require setbacks from these structures. If the existing setbacks specified in the Navigation Bylaw are not considered adequate by Meridian and Genesis then it would appear that the best solution would be for them to request Environment Canterbury to extend the no-boating and swimming areas.

With regard to the possibility of reverse sensitivity effects occurring, the form of this reverse sensitivity is not explained in the submission. PC19 is not expected to result in more people or boats using the lakes and rivers, and in fact it has the potential to reduce them. If that is so, then I am unsure as to how the generators will be adversely impacted.

Item 10 - Genesis and Meridian both request deletion of rules 7A.1.2b and 7A.2.2.b that provide for jetties and boat ramps as a Discretionary Activity on Lakes Pukaki, Tekapo, Benmore and Ruataniwha and rivers other than the Opihi and Opuha. The main reason given for requested deletion of these rules is that activities such as jetties and boat ramps are already managed by the Canterbury Land and Water Regional Plan. While consent may be required from ECan for a jetty this is normally because of the related disturbance to the bed of the waterway associated with the support structure or because the structure may impede flood flows. No consideration is given to the land use implications or the effects on use of the waterbody that may be result of establishment of a new jetty. These effects could be increased traffic and a lack of off-road parking or the activity compromising recreational values. Experience has shown that jetties and boat ramps are the focus of activities both on the adjoining land and in the lake or river areas adjoining these structures. The appropriate location of these structures is therefore importance in avoiding or mitigating potential adverse effects both on the environment but also on the amenity of people using these areas. The approach of district plans dealing with structures in inland waterways for these reasons has been the norm for many years. For these reasons I recommend that these rules be retained.

Recommendation

Add a new Permitted Activity for Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers (7A1.1.) and for Lake Pukaki (7A.2.1.) as follows:

The use of motorised and non-motorised craft related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.

13. Rule 7 – Outdoor Recreation Activities

Submissions

160	Walter and Zita Speck	Control commercial outdoor recreation regarding noise and visual disturbance.
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Assessment

Rule 7 is the original rule dealing with all outdoor recreation activities including activities on and within waterbodies. To address specific issues associated with activities on waterbodies it was considered efficient to

remove these activities from the general outdoor recreation activities. To make these changes to the District Plan it is necessary for the changes to Rule 7 to be included in PC19.

W and Z Speck have requested that noise and visual disturbance controls be placed on all commercial outdoor recreation. Those activities are not part of PC19 and so it is recommended that this submission be rejected.

Recommendation

Retain Rule 7 as notified in Plan Change 19

14. Rule 7A.1 -Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A ACTIVITIES ON OR WITHIN WATERBODIES

7A.1 Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A.1.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.

7A.1.1.b Non-commercial motorised and non-motorised activities

7A.1.1.c Craft on the surface of waterways used for accommodation where all effluent is contained on board the craft.

7A .1.2 Discretionary Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A.1.2.a Commercial motorised and non-motorised activities

7A.1.2.b Jetties and boat ramps

7A.1.3 Non-complying Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A.1.3.a Craft on the surface of waterways used for accommodation where effluent is not contained on board the craft.

Submissions

102	Anne Braun-Elwert	Need noise control on motor boats on Lake Tekapo especially near the Church
143	NZ Defence Force	Rule 7A.1.1.a include reference to "defence (including temporary military training activities"
148	Canterbury Regional Council	Rule 7A.1.1.a amend by adding "where the Activity is an enactment of a statutory responsibility"
159	Dept. of Conservation	Rule 7A.1 Amend by adding the Godley, Tasman , Cass and Dobson Rivers to the rivers which are not controlled through this rule
159	Dept. of Conservation	Rule 7A.1.1.b amend by requiring non-commercial motorised and non-motorised activities to only have access to a waterbody via a formed access or boat ramp
160	Walter and Zita Speck	Rule 7A.1.1.c oppose as no watercraft should be permitted overnight on waters especially Lake Tekapo
160	Walter and Zita Speck	Amend rule 7A.1.2.a commercial motorised and non-motorised activities to

		include controls on noise, emissions, visual pollution and litter - refer Submission #160 for detail
160	Walter and Zita Speck	Rule 7A.1.2.b - limit jetties/boat ramps to one designated area for commercial operators between the Tekapo River and the intake of the power station
160	Walter and Zita Speck	Non-commercial activities should be subject to eh same guidelines as commercial regarding noise, emissions, visual disturbance and wastes

Assessment

A Braun-Elwert seeks noise control on motor boats on Lake Tekapo and in particular near the Church of the Good Shepherd. Section 14 of the District Plan contains various noise standards that apply throughout the District as well as a specific standard (rule 2.3.4) that applies to watercraft. This standard was recently applied to a craft on Lake Pukaki which was found not to meet the standard. A large number of submissions have requested that this noise standard be amended by lowering the permitted noise level to reflect the special character of the Lakes (especially Lake Pukaki). These submissions are considered later in this report with the conclusion that noise is a matter that will be addressed in a comprehensive manner as part of the review of the District Plan and that the Council is reluctant to amend specific noise provisions at this stage.

With regard to the area of the Lake around the Church, the Council in developing PC19 looked at this matter. They noted that the Navigational Bylaw specifies a 5 knot limitation on craft within 250m of the lake shore and also a large area in the south east corner of the Lake over which there is a 5 knot control. This area is immediately to the east of the Church. It was expected that these speed limits would achieve a level of noise that may be acceptable in relation to the functioning of the Church. Again, the need for specific noise standards on waterbodies is considered to be most appropriately dealt with as part of the review of the District Plan to ensure consistent and well-informed decisions on this matter. All commercial activities on the Lake will require resource consent and where appropriate conditions can be placed on consents limiting noise and hours of operation and where the activity can occur. In determining any consent significant guidance will be taken from proposed Policy 8D- Church of the Good Shepherd which requires *management of commercial activities in the vicinity of the Church in order to maintain a level of quietness and tranquillity in keeping with the special character of the Church and its surroundings.*

The **New Zealand Defence Force** request that Permitted Activity Rule 7A.1.1.a set out below is amended to include "defence (including temporary military training activities)".

"Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes"

Temporary Military Training Activities are already provided for throughout the District in Section 14 Temporary Activities and Buildings and these provisions commence with the statement *"Notwithstanding anything to the contrary in the District Plan the following buildings and activities shall be permitted in any zone..."*. I note that these activities area subject to noise standards although these standards do not specifically address watercraft. With regard to the request that "defence" be added to the list of permitted activities, these activities I assume would only be carried out is there was a specific need in which case I consider there should be no impediment. I therefore recommend that "defence" be added to Rule 7A.1.1.a.

Environment Canterbury support Rule 7A.1.1.a as it enables them to carry out infrequent but necessary activities such as scientific monitoring and pest control. However they request that the rule be qualified by the words *"where the activity is an enactment of a statutory responsibility"*. While I agree that in general these permitted activities should be carried out by authorised organisations I am aware from other submissions that a number of boaties have rescued kayakers and the like who have got into trouble when the weather has

changed, particularly on Lakes Pukaki and Tekapo. I am not sure whether this would fall under the term “statutory responsibility”. On the assumption that this situation would be considered to fall within the term, I recommend that this submissions be accepted.

The **Department of Conservation** advise that the Godley, Tasman, Cass and Dobson Rivers are important breeding habitats for many important and threatened species so particular care is required during the breeding season as disturbance can result in loss or damage to eggs. In addition these rivers are home to significant indigenous biodiversity which could be adversely affected by uses. They consider that these rivers require additional protection beyond what is provided for in these rules and request that these rivers be excluded from rule 7A.1 and that they be included with the Opihi and Opuha Rivers rule in 7A.4. The main differences between the controls is that all motorised boating is a non-complying activity – refer below

In 7A.1 all rivers other than the Opihi and Opuha

- Non-commercial motorised and non-motorised activities -Permitted
- Commercial motorised and non-motorised activities - Discretionary

In 7A.4 Opihi and Opuha Rivers

- Non-commercial non-motorised activities -Permitted
- Commercial non-motorised is Discretionary
- Motorised is Non-complying

I accept that the four rivers have the values referred to by DoC and that there would be benefits in there being no motorised boating on these rivers. In particular there would be less possibility of nesting birds being disturbed by noise and physical disturbance of the riverbed and banks. A further issue is the potential transfer of pests by boats coming from other areas. My reservation is that people affected by this proposal, while legally have had the right to challenge this request; in reality it is unlikely they would have been aware of this request. However Jet Boating New Zealand (JBNZ) opposes this request in their further submission. The reasons for their opposition are:

- Jet boating is a permitted activity in the Godley, Macaulay and Dobson Rivers with DoC approval since 2006 with a partial uplift from December to April each year
- Access to the Macaulay if from the Godley River so the proposal effectively closes it to jet boat use
- JBNZ and DoC have renegotiated these rivers and in 2016 agreed to partial uplifting on these rivers from 25 December to 30 April each year and JBNA undertook to support DoC desire to have these responded via District Plans.
- In relation to the Tasman River they consider non-commercial craft, subject to breeding season restrictions should be a permitted activity and that any noise and disturbance of jet boats in a tourist area will be insignificant compared to aircraft. Very low commercial use is likely due to the nature of the river and the shortness of the trip.

I have spoken to Nadia Yozin of DoC to gain a better understanding of the situation and she confirmed the important biodiversity values of these rivers as habitat and their vulnerability to disturbance. She was not able to comment on the upliftings referred to in JBNZ but did advise that evidence would be presented by DOC detailing the values at risk.

The Maritime Rules created under the Maritime Transport Act 1994 specify that all boats must not exceed 5 knots within 200m of the shore of lakes or rivers or any structure. As most rivers in the region are less than 400m wide this means that most motorised boats are not able to use these rivers. In many cases uplifting of this limit are granted on particular sections of rivers and/or for a specific period during a year. Environment Canterbury who prepares and administers the Canterbury Regional Council Navigational Safety Bylaw 2016

and Control grant these upliftings which are also referred to as Speed Uplift Zones (SUZ) in the Navigation Bylaw. I have been advised by Gary Manch the Navigation Safety Officer at Environment Canterbury that there are upliftings for the Godley and Dobson Rivers but not for their tributaries. There are no upliftings for the Cass and Tasman Rivers. On this basis it is not necessary for the District Plan to limit motorised boating on the Cass and Tasman Rivers as these are effectively controlled through the 5 knot speed limit. However DoC may have other reasons why they consider there should also be control of motorised boating on these rivers in the District Plan. This is something that could be provided to the Panel at the hearing.

I understand that if an uplifting is applied for (which is often by the NZJBA) Environment Canterbury consults with relevant agencies such as Fish and Game to gain a better understanding of the various issues associated with motorised boat use of a river or lake. This is presumably what has happened over time in relation to the Godley, Dobson and Macaulay Rivers as referred to in the further submission of NZJBA.

With regard to the adverse effects of jet boating Environment Canterbury produced a report “Jet Boating on Canterbury Rivers – 2015”². This report looks at various elements of jet boating including environmental effects on riverbed nesting birds, salmonid spawning, trout and salmon spawning, impacts on river banks and natural values. Overall it was found that there was relatively little useful research but extensive anecdotal views from people either concerned about the impact of jetboating and those who considered that there many other greater threats such as from natural flooding events and 4 wheel drive vehicles. The research did not point to there being any significant environmental risks associated with jet boating. In these circumstances I consider it would be very helpful if DoC and NZJBA could provide assessment on these matters to assist the Panel in deciding whether PC19 needs stronger control on motorised boating on the Cass, Godley, Tasman and Dobson Rivers.

DoC have also requested that non-commercial motorised and non-motorised activities be required to only have access to a waterbody via a formed access or boat ramp. I consider that there is some merit in this proposal as it could reduce the potential for damage to the shore. However such a requirement could not realistically be applied to large lakes and extensive rivers. It would be difficult to monitor and enforce. In addition it is likely to be impractical given the very few boat ramps that exist and the fact that lake levels vary considerably such that these and jetties are not always able to be used, especially with low levels. I recommend this submission be rejected.

W and Z Speck – request that boats used for accommodation not be permitted overnight on waterways, especially Lake Tekapo. The reasons for this request is that it could create light pollution and create a conflict with residents if they provided for partying, Air B&B on water etc. I consider that the risk of these issues arising is limited and does not justify changing the permitted activity rule.

The Specks also request that commercial operations should be subject to the same standards as non-commercial activities regarding noise, emissions, visual pollution, and waste. All commercial operations on Lakes Tekapo, Benmore and Ruataniwha are a discretionary activity. While they are not strictly required to meet relevant standards, in assessing any application the standards that apply to permitted activity will be taken into consideration. Importantly, the Council is able to place conditions on consents to address all likely adverse impacts and in some cases may require a higher standard than for permitted activities. I recommend that this submission be rejected as the Council has sufficient powers to ensure appropriate standards are placed on commercial operations.

Finally W and Z Speck request that there is only one designated jetty/boat ramp for commercial operators between the Tekapo River and the intake to the power station. This request, while having merit, is not something that can be addressed directly through this plan change. However the Council could take actions to

² Environment Canterbury Report No. 15/153 Rob Greenaway, Rob Gerard, Ken Hughey

achieve or encourage the shared use of facilities through its ownership and control of the Open Space Passive zone which borders the Lake.

Recommendation

Amend Rule 7A1.1. as follows:

7A.1.1 Permitted Activities on or within Lakes Tekapo, Benmore and Ruataniwha and all rivers other than the Opihi and Opuha Rivers

7A.1.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, defence, scientific research and monitoring and pest control purposes, where the activity is an enactment of a statutory responsibility.

7A.1.1.b Non-commercial motorised and non-motorised activities

7A.1.1.c Craft on the surface of waterways used for accommodation where all effluent is contained on board the craft.

7A.1.1.d The use of motorised and non-motorised craft related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.

No recommendation regarding the exclusion of the Cass, Godley, Tasman and Dobson Rivers from Rule 7A.1

15. Rule 7A.2 Activities on or within Lake Pukaki

7A.2 Activities on or within Lake Pukaki

7A.2.1 Permitted Activities on or within Lake Pukaki

7A.2.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.

7A.2.1.b Non-commercial non-motorised activities

7A.2.2 Non-complying Activities on or within Lake Pukaki

7A.2.2.a Commercial non-motorised activities

7A.2.2.b Jetties and boat ramps

7A.2.3 Prohibited Activities

7A.2.3.a Commercial motorised activities

7A.2.3.b Non-commercial motorised activities

7A.2.3.c Craft on the surface of waterways used for accommodation.

General Submissions

In addition to the general submissions discussed in Section 5 of this report there are a large number of submissions specifically opposing or supporting the prohibited activities in Rule 7A.2.3 and in particular motorised recreational activities being prohibited activities. In almost all cases the submitters opposing the prohibited status are seeking permitted activity status. As discussed previously some submitters suggest or request that a specific area within the Lake be identified for use by motorised recreation activities. The following table summarises submissions to the Lake Pukaki Rules other than those relating to motorised activities

Submissions

143	New Zealand Defence Force (Rebecca Davies)	Include reference to "defence (including temporary military training activities)" in Rule 7A.3.1.a
148	Canterbury Regional Council	Amend rule 7A.3.1.a by adding "where the activity is an enactment of a statutory responsibility"
153 & 153	Meridian Energy & Genesis Energy	Add new permitted activity for boating activities related to the operation and development of the Waitaki Power Scheme
153 & 155	Meridian Energy & Genesis Energy	Include setbacks from tailrace spillways and other structures forming part of the Waitaki Power Scheme for non-commercial motorised and non-motorised activities
153 & 155	Genesis Energy & Meridian Energy	Insert new permitted activity "Any structure or activity required for the Waitaki Power Scheme activities, within the Waitaki Power Scheme Management Area"

The **New Zealand Defence Force** request that Permitted Activity Rule 7A.2.1.a set out below is amended to include "defence (including temporary military training activities)".

"Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes"

Temporary Military Training Activities are already provided for throughout the District in Section 14 Temporary Activities and Buildings and these provisions commence with the statement *"Notwithstanding anything to the contrary in the District Plan the following buildings and activities shall be permitted in any zone...."*. I note that these activities are subject to noise standards although these standards do not specifically address watercraft. With regard to the request that "defence" be added to the list of permitted activities, these activities I assume would only be carried out if there was a specific need in which case I consider there should be no impediment. I therefore recommend that "defence" be added to Rule 7A.2.1.a.

Environment Canterbury support Rule 7A.2.1.a as it enables them to carry out infrequent but necessary activities such as scientific monitoring and pest control. However they request that the rule be qualified by the words *"where the activity is an enactment of a statutory responsibility"*. While I agree that in general these permitted activities should be carried out by authorised organisations I am aware from other submissions that a number of boaties have rescued kayakers and the like who have got into trouble when the weather has changed, particularly on Lakes Pukaki and Tekapo. I am not sure whether this would fall under the term "statutory responsibility". On the assumption that this situation would be considered to fall within the term, I recommend that this submission be accepted.

Meridian and Genesis request setbacks of activities from structures associated with the WPS on the basis of achieving safety for boaties and to avoid "reverse sensitivity" effects. The safety of people using watercraft on lakes and rivers is something that is managed through Environment Canterbury's Navigation Safety Bylaws 2016 and Controls. This bylaw and the plans attached to the bylaw identify areas where boating, swimming or diving is not to occur. These are generally shown as red semicircles adjoining a particular facility – refer **Attachment C**. There is one of these associated with Lake Pukaki Dam and with the outlet from Tekapo B station into Lake Pukaki as well as around the Lake Tekapo intake and the dam on the Tekapo River. Environment Canterbury has confirmed that these areas generally have a radius of 200m and that these areas were requested by the generators. It is my estimate that the Pukaki Dam area on the plans has a radius of at least 250m and the remainder have a radius of approximately 200m. Given these controls I consider it is unnecessary and inappropriate for the District Plan to require setbacks from these structures. If the existing setbacks specified in the Navigation Bylaw are not considered adequate by Meridian and Genesis then it would appear that the best solution would be for them to request Environment Canterbury to extend the no-boating and swimming areas.

With regard to the possibility of reverse sensitivity effects occurring, the form of this reverse sensitivity is not explained in the submission. PC19 is not expected to result in more people or boats using the lakes and rivers, and in fact it has the potential to reduce them. If that is so, then I am unsure as to how the generators will be adversely impacted.

Rule 7A.2.1 - Permitted Activities on or within Lake Pukaki

Meridian and Genesis request permitted activity status for boating activity required for the operation of the Waitaki Power Scheme (WPS). I consider this request should be accepted. It is expected that this activity will be relatively limited but necessary to carry out the generators' functions over time. Inclusion of this new clause will clarify that boating required by generators to operate the Waitaki Power Scheme is permitted on Lakes Tekapo, Benmore, Ruataniwha and Pukaki and their associated rivers.

Meridian and Genesis also request any structure associated with WPS to be a permitted activity within the WPS Management Area (for which a definition is proposed). As discussed previously in this report this request raises the issue of how the WPS is provided for within the Mackenzie District Plan. Currently the WPS is provided for in the Rural Zone rules as a Scheduled Activity in Rule 13. This rule specifies Permitted, Controlled and Discretionary Activities are those contained in Schedule A of the Rural section of the Plan. In these circumstances it would be confusing to also provide for hydro-generation structures in the lakes and rivers in the surface of water controls set out in PC19, as potentially both sets of rules would apply. To date the existing controls in the Rural zone Scheduled Activity provisions have been used for works proposed by the generators and I am not aware of particular issues with these. If there is an issue I consider the most efficient way to address this matter is to include a consequential amendment in the Rural Zone Scheduled Activities rules stating that those rules take precedence over other rules, or stating that the rules relating to activities on or within waterbodies do not apply within the areas identified in Schedule A to the Rural zone.

There are numerous submissions directly or indirectly requesting the recreational (non-commercial) motorised boating be listed as a permitted activity on Lake Pukaki. I have considered this matter in my assessment of Rural Policy 8B – Lake Pukaki earlier in this report. On the basis of this assessment I recommend that non-commercial motorised activities on Lake Pukaki within a specifically identified area in the north and east of the Lake are permitted activities.

Rule 7A.2.2 - Non-complying Activities on or within Lake Pukaki

Pukaki Tourism Holdings Ltd (Submitter 125) request the commercial non-motorised activities status be changed from Non-complying to Discretionary. The reasons given for this change is that non-complying is overly restrictive and that commercial activities such as kayaks or paddle boarding are natural quiet, weather dependent (thus less frequent) and of a small scale. While these comments about the potential effects of commercial non-motorised activities a likely to be correct for some commercial activities, there is overwhelming support for submitters that a commercial element is not appropriate for a lake which has unparalleled values. In addition I note that there are many other opportunities for commercial recreation and tourism ventures associated with the Pukaki and Aoraki Mount Cook area to satisfy both operators and visitors. I therefore recommend that this submission be rejected.

Rule 7A.2.3 – Prohibited Activities on or within Lake Pukaki

There are numerous submissions directly or indirectly on this Prohibited Activity rule. On the basis of my assessment of proposed Rural Policy 8B – Lake Pukaki I recommend that non-commercial motorised activities on Lake Pukaki within a specifically identified area in the north and east of the Lake be removed from the Prohibited activity and included in the permitted activity rule.

Recommendation

Amend Rule 7A.2 as follows:

7A.2 Activities on or within Lake Pukaki

7A.2.1 Permitted Activities on or within Lake Pukaki

7A.2.1.a Use of motorised and non-motorised craft for search and rescue, defence, civil emergency, scientific research and monitoring and pest control purposes, where the activity is an enactment of a statutory responsibility

7A.2.1.b Non-commercial non-motorised activities

7A.2.1.c Non-commercial motorised activities within the area identified as “Non-commercial motorised activity area” on the Planning Maps

7A.2.1.d Motorised and non-motorised craft related to the operation, maintenance, upgrading and development of the Waitaki Power Scheme.

7A.2.2 Non-complying Activities on or within Lake Pukaki

7A.2.2.a Commercial non-motorised activities

7A.2.2.b Jetties and boat ramps

7A.2.3 Prohibited Activities

7A.2.3.a Commercial motorised activities

7A.2.3.b Non-commercial motorised activities other than in the area identified as “Non-commercial motorised activity area” on the Planning Maps

7A.2.3.c Craft on the surface of waterways used for accommodation.

16. Rule 7A.3 Activities on or within Lakes Alexandrina and McGregor

7A.3 Activities on or within Lakes Alexandrina and McGregor

7A.3.1 Permitted Activities on or within Lakes Alexandrina and McGregor

7A.3.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.

7A.3.1.b Non-commercial non-motorised activities

7A.3.2 Discretionary Activities on or within Lakes Alexandrina and McGregor

7A.3.2.a Commercial non-motorised activities

7A.3.3 Non-complying Activities on or within Lakes Alexandrina and McGregor

7A.3.3.a Jetties and boat ramps

7A.3.3.b Craft on the surface of waterways used for accommodation

7A.3.4 Prohibited Activities on or within Lakes Alexandrina and McGregor

7A.3.4.a Commercial motorised activities

7A.3.4.b Non-commercial motorised activities

Submissions

98	Helen Mary Ivey	Support controls prohibiting commercial and non-commercial motorised activity on Lakes McGregor and Alexandrina
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107	Martin and Penny Murray	Support Prohibited on Lakes Alexandrina and McGregor
119	Ross Kenneth Ivey	Prohibit commercial and non-commercial boating on Lakes Alexandrina and McGregor
132	Carol Linda Burke	Support
143	New Zealand Defence Force (Rebecca Davies)	Include reference to "defence (including temporary military training activities)" in Rule 7A.3.1.a
148	Canterbury Regional Council	Amend rule 7A.3.1.a by adding "where the activity is an enactment of a statutory responsibility"
159	Department of Conservation	Amend rules 7A3.1, 7A.3.2 and 7A.3.4 such that commercial and non-commercial yachts and sailboats on Lakes Alexandrina and McGregor change from being Permitted Activities to Prohibited Activities.

Assessment

The submissions on Rule 7A.3 generally support the strict controls on Lakes Alexandrina and MacGregor which have, in large part, been carried over from the Operative Plan. All motorised boating is prohibited except for essential services. Commercial non- motorised activities are discretionary. These lakes form part of a wildlife refuge that was established in 1899 and then re-gazetted under the Wildlife Act in 1957. At this time the gazetted restrictions included limits on boats wholly propelled by oars or paddles to prevent disturbance of wildlife habitats and bird breeding areas.

The **New Zealand Defence Force** request that Permitted Activity Rule 7A.3.1.a set out below is amended to include "defence (including temporary military training activities)".

"Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes"

Temporary Military Training Activities are already provided for throughout the District in Section 14 Temporary Activities and Buildings and these provisions commence with the statement *"Notwithstanding anything to the contrary in the District Plan the following buildings and activities shall be permitted in any zone...."*. I note that these activities area subject to noise standards although these standards do not specifically address watercraft. With regard to the request that "defence" be added to the list of permitted activities, these activities I assume would only be carried out is there was a specific need in which case I consider there should be no impediment. I therefore recommend that "defence" be added to Rule 7A.3.1.a.

The NZDF Designation for the Tekapo Military Training Area refers to Memoranda of Understanding between the New Zealand Defence Force and the Minister of Conservation which specifies conditions on military activities which occur within sites of special conservation significance. Both these lakes are identified sites of natural significance and so I assume that the use of these lakes is subject to stringent standards to ensure the wildlife and their habitat are not compromised.

Environment Canterbury support Rule 7A.3.1.a as it enables them to carry out infrequent but necessary activities such as scientific monitoring and pest control. However they request that the rule be qualified by the words *"where the activity is an enactment of a statutory responsibility"*. I agree that in general these permitted activities should be carried out by authorised organisations and therefore recommend that this submission be accepted.

The **Department of Conservation** request amending rules 7A3.1, 7A.3.2 and 7A.3.4 such that commercial and non-commercial yachts and sailboats on Lakes Alexandrina and McGregor change from being Permitted Activities to Prohibited Activities. Their concern is that these types of boat create a wake which could cause significant effects on indigenous biodiversity and they are not therefore appropriate on these lakes. They have made submissions that both the permitted activity non-commercial non-motorised rule and the discretionary

commercial non-motorised rule be qualified by adding “(excluding yachts and sailboats)”. They then request that commercial and non-commercial yachts and sailboats be included in the prohibited activity list which includes commercial and non-commercial motorised activities. If these changes were made it would result in the unusual situation that commercial kayaking or canoeing would be a discretionary activity under rule 7As.3.2.a but commercial sailboats would be prohibited under rule 7A.3.4. Similarly non-commercial kayaking and canoeing would be permitted but non-commercial sailboats would be prohibited. Unless the submitter can provide information supporting these distinctions I recommend that this submission be rejected.

Recommendation

Amend Rule 7A.3.1 as follows:

Use of motorised and non-motorised craft for search and rescue, civil emergency, defence, scientific research and monitoring and pest control purposes, where the activity is an enactment of a statutory responsibility.”

17. Rule 7A.4 Activities on or within the Opihi and Opuha Rivers

7A.4 Activities on or within the Opihi and Opuha Rivers

7A.4.1 Permitted Activities on or within the Opihi and Opuha Rivers

7A.4.1.a Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes.

7A.4.1.b Non-commercial non-motorised activities

7A.4.2 Discretionary Activities on or within the Opihi and Opuha Rivers

7A.4.2.a Jetties and boat ramps

7A.4.2.b Commercial non-motorised activities

7A.4.3 Non-complying Activities on or within the Opihi and Opuha Rivers

7A.4.3.a Commercial motorised activities

7A.4.3.b Non-commercial motorised activities

7A.4.3.c Craft on the surface of waterways used for accommodation

Submissions

94	Alister and Haidee McCabe	Oppose excluding jet boating on these rivers. Amend Rule 7A.4.1.b - Non-commercial motorised and non-motorised activities.
131	Timaru District Council	Consider cross-boundary inconsistencies of status of activities on the Opihi River
143	New Zealand Defence Force (Rebecca Davies)	Include reference to "defence (including temporary military training activities)" in Rule 7A.4.1.a
148	Canterbury Regional Council	Amend rule 7A.4.1.a by adding "where the activity is an enactment of a statutory responsibility"
159	Department of Conservation	Amend rules 7A.4.1, 7A.4.2 and 7A.4.3 to extend protection to the Godley, Tasman, Cass and Dobson Rivers
162	Opuha Water Limited	Amend rule Permitted Activity 7A.4.1.a by including reference to operations etc. associated with the Opuha Scheme infrastructure
162	Opuha Water Limited	Include new Prohibited Activity rules 7A.4. 4 to apply on or within the Opihi and Opuha Rivers during the period 1 April to 30 September. Refer to submission #162 for detailed wording

Assessment

The **New Zealand Defence Force** request that Permitted Activity Rule 7A.3.1.a set out below is amended to include “defence (including temporary military training activities)”.

“Use of motorised and non-motorised craft for search and rescue, civil emergency, scientific research and monitoring and pest control purposes”

Temporary Military Training Activities are already provided for throughout the District in Section 14 Temporary Activities and Buildings and these provisions commence with the statement “*Notwithstanding anything to the contrary in the District Plan the following buildings and activities shall be permitted in any zone....*”. I note that these activities are subject to noise standards although these standards do not specifically address watercraft. With regard to the request that “defence” be added to the list of permitted activities, these activities I assume would only be carried out if there was a specific need in which case I consider there should be no impediment. I therefore recommend that “defence” be added to Rule 7A.4.1.a.

Environment Canterbury support Rule 7A.4.1.a as it enables them to carry out infrequent but necessary activities such as scientific monitoring and pest control. However they request that the rule be qualified by the words “*where the activity is an enactment of a statutory responsibility*”. I agree that in general these permitted activities should be carried out by authorised organisations and therefore recommend that this submission be accepted.

Opuha Water Limited (OWL) request that this rule make provision for consent monitoring as it is not clear whether the term “scientific research and monitoring” covers this activity which OWL have to undertake to satisfy various resource consent conditions regarding lake quality. I consider this to be a worthwhile amendment but raise the query that for consistency this change ideally should be made to all the PC19 permitted activity rules.

OWL also request inclusion of “operational inspections of Opuha Scheme infrastructure” into the permitted activity rule. Again this is considered a worthwhile amendment to clarify that these required actions can be undertaken without the need for resource consent.

There are several submissions relating to the status of motorised boating on the Opihi and Opuha Rivers.

A and H McCabe oppose the exclusion of jet boating on the Opihi and Opuha Rivers. Rule 7A.4.3.b specifically lists non-commercial motorised activities on these rivers as non-complying activities. This provision has been carried over from the current District Plan which has been operative since 2004. The Operative Plan refers to there being no motorised boating above the confluence of the Opihi and Opuha rivers. In fact the only parts of these rivers that are within the Mackenzie District are above the confluence of these rivers. The reason for this level of protection is to protect the habitat within these predominantly single braided river channels which are widely used by trout and salmon for spawning.

On this basis I do not consider this submission should be accepted as the current control has a sound basis and has been accepted over time.

Timaru District Council is seeking consistency between the Mackenzie and Timaru District Plan in relation to activities on the Opihi River. The boundary between these two districts runs up the centre of the Opihi River above the confluence of the river with the Opuha River and up the Opuha River above the Skipton Bridge. The Timaru District Plan effectively makes no provision for motorised boating on those parts of the Opihi River above the confluence e.g where it is shared with Mackenzie District. These motorised activities are therefore prohibited activities in Timaru District (the true right side of the river) whereas the rules in PC19 specify that non-commercial motorised activities are non-complying (on the true left side of the Opihi River). The

submission points out this situation will cause administrative difficulties. Interestingly these motorised activities on the Opihi River appear to be Discretionary activities in the Operative Mackenzie Plan as they are not expressly provided for. The issue raised in the Timaru District Council submission to PC19 therefore appears to be relevant to the current situation i.e. different status of activities of motorised boating on the Opihi River with Timaru District Plan control providing for no consents (prohibited activity) and the Mackenzie Plan and PC19 requiring consent.

The submission does not raise the same matter with the Opuha River where commercial motorised activities are non-complying in PC19 and are discretionary in the Timaru District Plan. However this difference is unlikely to cause any real problems as resource consent is required either way. The submission requests that Council consider the cross boundary matters described in their submission. It is assumed that this includes consideration of making motorised boating on the Opihi River a prohibited activity. This matter is considered further below in assessment of Opuha Water Limited's submission.

Opuha Water Limited have requested that a new rule be added making commercial and non-commercial motorised activities a prohibited activity during the period 1 April to 30 September, representing the spawning season. Outside of this season these activities would be non-complying. OWL point out that one of the implementation methods for Policy 8E is "To prevent the use of motorised craft upstream of the confluence of the Opihi and Opuha Rivers" and the use of the term "prevent" indicates that these activities should be prohibited.

The issues raised by these various requested changes to the rules relating to the Opihi and Opuha Rivers are:

- The Mackenzie District Plan manages the Opihi and Opuha Rivers in the same way whereas the Timaru District Plan has stricter provision for the Opihi River
- To be consistent with the Timaru Plan all motorised activity on the Opihi would have to be prohibited but OWL only request this status for the spawning season
- The Implementation Method to Policy 8E specifies prevention of motorised craft during spawning season but for consistency of rules between District Plans the prohibition needs to be for the full year.
- It is not known what approach will be taken by the reviewed Timaru District Plan

I consider that at least prohibited status should be applied to motorised activity on the Opihi and Opuha Rivers during the spawning season to provide protection of the spawning habitat. While in theory it is administratively very difficult to have two different regimes in place for a river, this situation already exists for both the Opihi and Opuha Rivers. In this circumstance, and because it is not known how the forthcoming review of the Timaru District Plan will address the situation, I do not consider consistency is a sufficient basis by itself for making a decision on these controls. I therefore recommend that the submission of OWL be accepted. I also recommend that the non-complying rules 7A.4.3.a & b be consequentially amended to exclude the period covered by the prohibited activity rule.

The Department of Conservation request that the Godley, Tasman, Cass and Dobson Rivers be included in Rule 7A4 due to the greater protection these rules would provide. They consider these rivers need additional protection to because they are home to significant indigenous biodiversity and the use of these rivers could lead to adverse effects on these species. Jet Boat NZ has made a further submission opposing this submission stating the proposed approach is inconsistent with agreement reached between the Association and DoC in December 2016 allowing for a partial uplifting of the speed limits from 25th December to 30th April each year. This matter has been considered in detail in assessment of submission to Rule 7A.1. While no recommendation has been made the assessment concludes that:

- As there are no speed upliftings for the Cass and Tasman Rivers it is not necessary for the District Plan to limit motorised boating on the Cass and Tasman Rivers as these are effectively controlled through

the 5 knot speed limit. However DoC may have other reasons why they consider there should also be control of motorised boating on these rivers in the District Plan. This is something that could be provided to the Panel at the hearing.

- The research to date does not point to there being any significant environmental risks associated with jet boating. In these circumstances I consider it would be very helpful if DoC and NZJBA could provide assessment on these matters to assist the Panel in deciding whether PC19 needs to more strongly control motorised boating on the Cass, Godley, Tasman and Dobson Rivers.

Recommendation

Amend Rule 7A.4.1.a as follows:

Use of motorised and no-motorised craft for search and rescue, civil emergency, defence, scientific research and monitoring, consent monitoring, operational inspections of Opuha Dam Scheme infrastructure and pest control purposes where the activity is an enactment of a statutory responsibility.

Amend Rules 7A.4.3 as follows:

7A.4.3 Non –complying Activities on or within the Opihi and Opuha Rivers

7A.4.3.a Commercial motorised activities excluding the period 1 April to 30 September

7A.4.3.b Non-commercial motorised activities excluding the period 1 April to 30 September

Add the following prohibited activity rule as 7A.4.4

7A.4.4 Prohibited Activities on or within the Opihi and Opuha Rivers

7A.4.4.a Commercial motorised activities during the period 1 April to 30 September

7A.4.4.b Non-commercial motorised activities during the period 1 April to 30 September

No recommendation on DoC submission requesting inclusion of Cass, Dobson, Godley and Tasman Rivers into Rule 7A.4

18. Noise Standards

Submissions

Numerous		Amendment sought to address noise which is not addressed by the Plan Change. District Plan Section 14 Clause 2.3.4 Watercraft Noise shall be amended to reflect the special character of Lakes (especially Lake Pukaki). The noise levels should be at most the same as 'Quiet Rural Noise' which is 30 dBA.
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Assessment

Approximately 64 submissions directly, and many others indirectly, request that the noise standards for watercraft I Section 14 Clause 2.3.4 Watercraft Noise be amended to reflect the special character of these lakes. This standard specifies:

2.3.4 Watercraft Noise

- i Powered watercraft shall be fitted with effective mufflers during all movement on water and shall not exceed the following noise limits at any point within the notional boundary of any residential dwelling:

On any day

7.00am to 9.00pm Sound Exposure Level (SEL) 85 dBA

9.00pm to 7.00am the following day Sound Exposure Level (SEL) 78 dBA

Provided no moving craft shall emit noise in excess of Sound Exposure Level of 90 dBA in any single driveby measured at any notional point more than 25m from the line of travel of the craft.

- ii Sound exposure levels shall be measured in accordance with the provisions of NZS 6801:1991 Measure of sound (or its successors). Provided further that on four occasions in any 12 month period, the noise limit may be unrestricted for any portion of water for the purpose of an approved special event.

Many of the submitters request a maximum noise level 30dBA which would apply to all craft, including recreational craft operating in waterbodies including Lake Pukaki. These submissions do not specify how or where the noise level would be applied. Marshall Day Acoustics in their assessment have indicated that the current permitted watercraft noise standard is such that if the maximum noise level is applied, then there is nowhere on the lake that motorised boating noise would be inaudible. They have therefore suggested that a stricter noise level be applied so that quieter non-commercial boats are able use at least some parts of the Lake. They also suggest a different noise parameter be used.

The Council have advised that they wish all aspects of noise control to be reassessed as part of the full review of the District Plan and therefore do not consider it appropriate to consider amendments to one element of the noise controls in isolation. I consider that review of the watercraft noise standard as it applies to Lake Pukaki needs to be undertaken as a lower noise level would better achieve the desired quietness and tranquillity sought in the Objective 8. The question that arises is whether consideration of a should be done as part of a review of all the Plan's noise standards to ensure that a consistent approach is taken in determining appropriate noise levels and noise parameters for all activities, including watercraft. While ideally amendment of the watercraft noise standard for Lake Pukaki should occur as part of consideration and decisions on PC19, Marshall Day have indicated further work is needed to refine the most suitable noise parameter and level. As such I consider it is acceptable that this review could be undertaken as part of the review of district wide provision in the District Plan and that the risks of not acting on this matter at this stage are not significant.

19. Definitions

Assessment

Meridian and Genesis requested a number of additional definitions related to the Waitaki Power Scheme which have addressed previously along with other provisions relating to the WPS. **Opuha Water Ltd (submitter 161)** have requested that the definition of "commercial activity" in the Plan be changed as it currently excludes recreation. On this basis I assume that the submitter considers that commercial activities as referred to in the PC19 provisions could not apply to a commercial operation involving recreation. DoC has lodged a further submitter challenging OWLs request and disagreeing with their interpretation of commercial activity. They note that the definition excludes recreation.

To date there has been no issues with the way the rules apply to commercial boating activities with it being accepted that while recreation is involved if there is an element of services being offered that it is a commercial enterprise and so falls under the definition of commercial activity. However the commercial element that has needed consent has generally been on the land and not the water. The definition of commercial activity only refers to the use of land or buildings. I agree that the specific exclusion of recreation along with the lack of reference to activities on water creates uncertainty. As the distinction between commercial and non-commercial activities in PC19 is critical to determining the status of on-water activities I agree the definition of commercial activity should be amended to include reference to water, removal of the exclusion of recreation and inclusion of recreational activities where there is a charge and that the charge is for profit.

Recommendation;

Amend the definition of commercial activities as follows:

Commercial Activity: means the use of land, water and buildings for the display, offering, provision, sale or hire of goods, equipment, or services, and includes shops, showrooms, travel and real estate agencies, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, recreational activities where are charge for profit is involved, the sale of liquor and associated parking areas; but excludes ~~recreational activities~~, community and service activities, home occupations not-for profit recreational activities and visitor accommodation. Notwithstanding that service activities are excluded, commercial activity includes the ancillary manufacturing or repair of goods which have the same or similar effect on the environment as the retailing of those goods.

Report prepared by: Patricia Harte

Consultant Planner (Davie Lovell-Smith Ltd) on behalf of the Mackenzie District Council

Date: 6 November 2018

ATTACHMENTS A to G – Refer separate files on MDC website