

CHAPTER 28 RULES FOR ACTIVITIES IN THE BEDS AND ON THE SURFACE OF RIVERS AND LAKES

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28.1 STRUCTURES, CULVERTS, FENCES, PIPES AND CABLES, BED DISTURBANCES AND PLANTING

Refer to Policy sets 27.1.3 – 27.7.3.

28.1.1 Scope of Section

The rules in this section regulate structures, including culverts, fences, pipes and cables, bed disturbances and plantings in, on, under or over the beds of rivers and lakes. This is the land which waters of the river cover at its fullest flow without overtopping the banks. Land covered by flood flows overtopping the banks is regulated by rules in Part II of the Plan. The provisions of Part IV also apply to activities that occur within rivers that are in karst systems (including caves). They do not apply to activities in the coastal marine area (see Part III).

Restrictions in Section 13 of the Act apply to wetlands where the wetland becomes part of the bed of the river when the river is at its fullest flow, or part of the bed of a lake when the lake reaches its highest level without exceeding its margins.

The beds of rivers and lakes in New Zealand are owned by the Crown, iwi or by private organisations or individuals. Any person intending to build any structure in, on, under or over the bed of a lake or river must obtain the approval of the owner of the bed before doing so, including where the activity is authorised by a resource consent or rule in this Plan. The owner may be the Crown or other public entity, or a private landowner, group or organisation, including Māori landowners and Māori entities.

Chapter 29 details the information required with a land use consent application under this section.

Advice Note: The Resource Management (National Environmental Standard for Freshwater) Regulations 2020 may apply to some activities, including farming activities and activities in or near wetlands and rivers. The National Environmental Standard may alter the activity status of an activity and impose additional standards, information requirements, matters for assessment and criteria. Please ensure you have met any requirements in the regulations in addition to those in this plan.

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28.1.2 General

28.1.2.1 Permitted Activities (General)

NOTE: Rule 28.1.2.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

Any activity in, on, or under the bed of a river or lake subject to rule 28.1.3.1, 28.1.4.1, 28.1.5.1, 28.1.6.1 or 28.1.7.1 is a permitted activity, if it also complies with the following general conditions, as applicable:

- (a) Any structure is not a dam or weir. (*Refer to section 28.2.2*)
- (b) Except as provided by rules 28.1.3.1, 28.1.4.1 or 28.1.5.1, any structure erected, constructed, or placed after 27 February 2010 is not in or on a lake or river identified in a water conservation order.
- (c) Any structure does not impede the flow of floodwater nor cause any flooding or scour, including as a result of its erection, placement, or maintenance.
- (d) The structure includes any necessary outfall or inlet or scour protection work that uses rock or natural substrate, including associated geotextiles, and that is integral to the proper functioning of the structure.

- (e) Scour protection work does not include demolition material, waste fill, vehicle bodies or similar materials.
- (f) There is no permanent change to the character, scale, intensity, or functions of any structure, except where the structure is being removed.
- (g) For any reconstruction or alteration of a structure, the structure is reconstructed in the same location with the same character, scale, and intensity as the original structure.
- (h) Where a structure is removed or demolished, no part of the structure remains in the bed, including on the bank of the river or lake, and the bed is reinstated as far as practicable, consistent with the state of the adjacent bed.
- (i) Any structure is maintained in good repair and free of obstruction by debris.
- (j) The activity does not or is not likely to cause any scour or erosion of the bed, including the banks.
- (k) There is no disturbance from 1 May to 30 September in any year by the use of motorised machinery on any part of the bed covered by water in rivers listed in Schedule 30A as trout spawning rivers.
- (l) There is no disturbance from 15 February to 31 May in any year by the use of motorised machinery in the river bed, including the banks, within 1 kilometre of the river mouth that causes damage to inanga spawning habitat (the principal whitebait species).
- (m) There is no disturbance from October to February inclusive by the use of motorised machinery in any river bed location listed in Schedule 30A as having a black-fronted tern nesting site.
- (n) There is no disturbance from October to December inclusive in any year by the use of motorised machinery in any river bed location listed in Schedule 30A as a having black-billed gull nesting site.
- (o) Any materials no longer required as part of the activity, including any temporary structures, are not stored in or on any river or lake bed and are removed after completion of the activity.
- (p) There is no refuelling of machinery in the bed of a river or lake.
- (q) The design, placement, and maintenance of any structure does not impede the passage of fish, except that in respect of culverts, fords, and tidal flood gates existing as at 27 February 2010, and except where permitted by condition 28.1.6.1(d)(x), this condition does not have legal effect until five years from its operative date.
- Note:** Decisions about enforcement action in relation to this condition will be guided by the provisions of Policy 27.1.3.5.
- (r) The activity does not disturb any cultural heritage site as listed in Schedule 16.13C.
- Advice Note:** Condition (r) prevails over the regulations of the NES-PF as it regulates an effect that is outside the scope of the NES-PF.
- (s) The activity does not prevent or reduce existing public access except where it is temporarily restricted to protect public safety during the necessary disturbance or construction.
- Advice Note:** Condition (s) prevails over the regulations of the NES-PF as it regulates an effect that is outside the scope of the NES-PF.
- (t) The structure does not cause a hazard to navigation of the river.
- (u) Any discharge of sediment as a result of the bed disturbance complies with the conditions of rule 36.2.2.4 or rule 36.2.3.1.

Notes:

1. Resource consent may also be required for associated water diversion or contaminant discharge activities.
2. The Freshwater Fisheries Regulations 1983 require that:
 - (a) no culvert or ford in any natural river, stream, or water is constructed in such a way that the passage of fish would be impeded, without the written approval of the Director-General of Conservation; and
 - (b) the occupier of any land maintains any culvert or ford in any natural river, stream, or water in such a way as to allow the free passage of fish.
3. The Council's Navigation Safety Bylaw also requires that structures do not restrict navigation or cause injury or damage to people or property.
4. Known cultural heritage sites are identified in section 16.13.

28.1.3 Structures**28.1.3.1 Permitted Activities (Structures)**

NOTE: Rule 28.1.3.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

The use, erection, reconstruction, placement, alteration, extension, removal, or demolition of a structure that is fixed in, on, or under the bed of a lake or river or any associated bed disturbance is a permitted activity, if it complies with the following conditions:

- (a) The activity complies with the general conditions of rule 28.1.2.1.
- (b) The structure is not a fence, pipe, line, cable, culvert, ford, bridge, or dam, or the placement of any debris. (*Refer to rules 28.1.4.1 and 28.1.5.1*)
- (c) The horizontal area of the structure does not exceed 2 square metres.
- (d) Any intake or discharge structure does not extend over more than 10 percent of the bed width.
- (e) There is no water intake structure in the Buller, Matakitaki, Matiri or Mangles rivers.
- (f) Except in the case of a navigational aid or the sight board of any gauge, any visible part of the structure blends in with the surroundings, including being a recessive colour.

Note: A water intake structure does not include a pipe or hose.

28.1.4 Fence, Pipe, Line or Cable Structures across the Bed**28.1.4.1 Permitted Activities (Fence, Pipe, Line or Cable Structures across the Bed)**

NOTE: Rule 28.1.4.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

The use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any fence, pipe, line, or cable across, under, or over the bed of a lake or river is a permitted activity or any associated bed disturbance, if it complies with the following conditions:

- (a) The activity complies with the general conditions of rule 28.1.2.1.
- (b) The fence, pipe, line, or cable does not cross a lake or river identified in any water conservation order that requires the waters of the lake or river to be maintained in their natural state or protected for their wild and scenic values, unless it is attached to an existing lawfully established support structure.
- (c) No part of the pipe, line, or cable is fixed on or under the bed of the lake or river, except where it is a utility service line or pipe crossing under the bed and the bed disturbance required for the fixing is not in any river within the area enclosed by Land Disturbance Area 2.
- (d) Where it is attached to an existing lawful structure, no part of any pipe, line or cable extends below the underside of the existing structure.

28.1.5 Culverts, Fords or Bridges

28.1.5.1 Permitted Activities (Culverts, Fords or Bridges)

NOTE: Rule 28.1.5.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

The use, erection, reconstruction, placement, alteration, extension, removal, deposition, or demolition of any culvert, ford, or bridge and any associated bed disturbance of a river or lake is a permitted activity, if it complies with the following conditions:

- (a) The activity complies with the general conditions of rule 28.1.2.1.

Culverts, Fords and Bridges

- (b) There is no culvert, ford, or bridge constructed after 27 February 2010 in any river identified in a water conservation order that requires the waters of the lake or river to be maintained in their natural state, or protected for their wild and scenic values, except where it is a single span pedestrian bridge providing public access.
- (c) Any cut and fill of the bed required for the installation or construction of a culvert, ford or bridge within the area of Land Disturbance Area 2 does not exceed 0.5 metres.

Advice Note: Condition (c) prevails over NES-PF Regulations 22-35 because they are more stringent under Regulation 6(3)(a).

Culverts and Fords

- (d) The culvert or ford is designed to ensure passage of flood flows during a 2 percent annual exceedance probability flood flow that may include provision for overtopping that does not cause structural failure.
- (e) The culvert or ford does not divert water from its natural flow path.
- (f) The inlet and outlet of the culvert or the upstream and downstream margins of the ford are constructed and maintained to avoid scour of the river bed and banks.
- (g) The culvert or ford is designed so that a 2 percent annual exceedance probability flood flow does not result in increased flooding or inundation on upstream or neighbouring properties.

Culverts

- (h) The maximum:
- (i) width of the river bed, where the culvert is to be installed, is less than 3 metres, and
 - (ii) fill height above the culvert is 2 metres, except where the culvert is designed to ensure passage of flood flows during a 1 percent annual exceedance probability flood flow and a secondary flow path is provided, and
 - (iii) length of the culvert pipe is 15 metres, except where the culvert is part of a state highway or public road.
- (i) The invert of the culvert pipe (the level of the internal base (bottom) of a culvert) is below the bed.
- (j) Base flow of the river is not impeded by the culvert.

Bridges

- (k) The bridge is a single span bridge.
- (l) For any bridge constructed after 27 February 2010, the soffit (underside of the bridge beams) of the bridge is at least 0.5 metres higher than the top of the banks of the river bed, or at least 0.5 metres above the 2 percent annual exceedance probability flood, whichever is the lowest.
- (m) The bridge and its abutments are fixed in place, except where the bridge is temporary and relocatable.
- (n) The bridge and its support structures:
- (i) do not impede the flow of flood water or water-borne debris, or
 - (ii) do not increase the water level beneath the bridge structure so as to increase the likelihood of water leaving the main channel and flowing over a bank;
- and
- (iii) are installed and maintained so as to not cause erosion of the bed, including the banks of the lake or river.

Notes:

1. A building consent from the Council is required for a bridge and some culverts under the Building Act 2004.
2. The 2 percent annual exceedances probability is equivalent to a 1-year-in-50 frequency flood. Flow details to assist with design and construction are included in the Council's Good Practice Guide.

Means of Compliance

Advice about design and construction of culverts to ensure passage of fish and prevention of scour is provided for in the Council publication, "Guidelines for Culvert Design and Management".

28.1.5.2 Controlled Activities (Culverts, Fords or Bridges)

The use, erection, reconstruction, placement, alteration, extension, removal, deposition, or demolition of any culvert, ford, or bridge and any associated bed disturbance of a river or lake bed that does not comply with the conditions of rule 28.1.2.1 or rule 28.1.5.1 is a controlled activity, if it complies with the following conditions:

Culverts, Fords and Bridges

- (a) There is no culvert, ford, or bridge constructed after 27 February 2010 in any river identified in a water conservation order that requires the waters of the river to be maintained in their natural state, or protected for their wild and scenic values.
- (b) Any cut and fill of the bed required for the installation or construction of a culvert, ford, or bridge within the area enclosed by Land Disturbance Area 2 does not exceed 0.5 metres.

Culverts and Fords

- (c) The culvert or ford is designed so that a 2 percent annual exceedance probability flood flow does not result in increased flooding or inundation on upstream or neighbouring properties.
- (d) The culvert or ford is designed to ensure passage of flood flows during a 2 percent annual exceedance probability flood flow that may include provision for overtopping that does not cause structural failure.
- (e) The culvert or ford does not impede the passage of fish.

Bridges

- (f) For any bridge constructed after 27 February 2010, the soffit (underside of the bridge beams) of the bridge is at least 0.5 metres higher than the top of the banks of the river bed, or at least 0.5 metres above the 2 percent annual exceedance probability flood, whichever is the lowest.
- (g) The bridge and its support structures:
 - (i) do not impede the flow of flood water or water-borne debris, or
 - (ii) do not increase the water level beneath the bridge structure so as to increase the likelihood of water leaving the main channel and flowing over a bank;and
 - (iii) are installed and maintained so as to not cause erosion of the bed, including the banks of the lake or river.

A resource consent is required. Conditions may be imposed on the following matters over which the Council has reserved control:

- (1) The design, location, and construction of the culvert, ford or bridge, including the invert level of the culvert or ford.
- (2) Measures to provide for and maintain the passage of fish.
- (3) Techniques for ensuring safe passage of flood water (spillway requirements), including depth of fill and fill material used in construction.
- (4) Provisions for safe navigation.
- (5) Measures to prevent damage to riparian vegetation or soil.
- (6) The potential adverse effects on bed and bank stability and water quality.
- (7) Measures to control adverse effects of the activity on upstream or downstream properties and other structures.
- (8) The potential adverse effects on public access to and along the river.
- (9) Effects of the proposed structure on public access along the river.

- (10) Effects on indigenous vegetation and habitats of indigenous fauna.
- (11) Effects on any cultural heritage site listed in Schedule 16.13.
- (12) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (13) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (14) Financial contributions, bonds and covenants in respect of the performance of conditions and administration charges (Section 108 of the Act).

28.1.6 Disturbance of the Bed, including Excavation, Drilling or Tunnelling

28.1.6.1 Permitted Activities (Disturbance of the Bed, including Excavation, Drilling or Tunnelling)

NOTE: Rule 28.1.6.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

The disturbance of the bed of any river or lake and associated deposition is a permitted activity, if it complies with the following conditions:

- (a) The activity complies with the general conditions of rule 28.1.2.1.
- (b) Except as provided in conditions (c) or (d), the bed disturbance is not the removal of bed substrate. (*Refer to rule 28.5.2.1*)
- (c) The disturbance is not subject to rule 28.1.3.1, 28.1.4.1, 28.1.5.1 or 28.1.7.2.
- (d) The bed disturbance and any associated deposition is for or associated with:
 - (i) non-motorised disturbance or geotechnical testing; or
 - (ii) small-scale suction dredging where engines are no more than 7 kilowatts and the dredging is not carried out within 20 metres of any structure; or
 - (iii) the removal of organic debris and all or parts of structures damaged by an extreme event, provided that any damage to the bed or bank is repaired; or
 - (iv) the repair of any lawfully existing river protection work, including the reinstatement or repair of an existing river protection work which does not extend the dimensions beyond the nature and scale of the previously existing river protection work; or
 - (v) the repair of bed or bank erosion by the relocation of bed material provided there is no disturbance in the wetted part of the bed; or
 - (vi) the removal of any total control or progressive control pest plants or grey or crack willow (*Salix cinerea* and *Salix fragilis*), provided that no willow tree roots are removed by mechanical methods; or
 - (vii) the excavation of less than 5 cubic metres of gravel for improving access to an authorised taking of water, provided:
 - (a) the excavation is in a river in the Moutere Surface Water, Dovedale or Stanley Brook water management zones;
 - (b) the excavation is no deeper than 2 metres below the surrounding natural bed level;

- (c) the excavated material is placed upstream of the excavation and is not removed from the bed; or
- (viii) the removal of sand, silt, or clay, provided:
 - (a) it is for the purpose of maintaining land drainage functions of the river;
 - (b) the meander and location of the watercourse are not modified;
 - (c) any bed disturbance is kept to the minimum necessary to clear the sand, silt or clay;
 - (d) there is no destruction or removal of vegetation by root-raking, blading or other method that causes similar soil disturbance on the banks; or
- (ix) the removal of accumulated sand, silt or clay to enable the proper functioning of the impoundment of any constructed dam; or
- (x) the construction of a structure to dam or divert water using bed material or textiles to enable bypass or diversion of water during the alteration, reconstruction, extension, repair or maintenance of a legally existing structure, provided the structure does not reduce the capacity for fish, including eels, to migrate past for periods exceeding five days in any 20-day period; or
- (xi) the disturbance of the bed to create channels for jet boat passage, provided:
 - (a) the activity is carried out as part of a public training or competitive jet boating event;
 - (b) the activity is limited to the Waimea River between a point 1 kilometre downstream of the confluence of the Wai-iti River and a point 1 kilometre upstream of the State Highway 60 bridge at Appleby;
 - (c) the activity is carried out once in a 12-month period;
 - (d) there is no disturbance to the banks;
 - (e) the Environment & Planning Manager must be notified at least one month prior to work commencing; or
- (xii) the deposition, relocation, or removal of bed material, provided that the disturbance is a measure immediately required after an extreme event to:
 - (a) remedy or prevent erosion that is undermining lawfully existing structures or the river bed or bank stability, or
 - (b) remedy erosion or aggradation that is preventing the proper functioning of lawfully existing structures, or
 - (c) remedy or prevent increased risk of flooding to adjacent land;and provided that in respect of any of conditions (b), (c) or (d):
 - (d) the disturbance is not in a river classified as X or Y in the Council's River Activity Management Plan (2009 - 2019), dated August 2009; and
 - (e) the disturbance does not result in any alteration to the original channel shape, area, depth or gradient; and
 - (f) conditions (k) to (n) and (u) of rule 28.1.2.1 do not apply; and
 - (g) where the disturbance is carried out in any river that is wider than 4 metres as measured between the toe of the river banks as an average over the length of river within which the works are to occur, information is provided to the Engineering Manager on request to demonstrate compliance with condition (d)(xii).
- (e) Any hole created in the bed as part of the disturbance is filled with natural substrate on completion of the work.

- (f) Except for that arising from activities permitted by conditions (d)(viii) and (d)(xii) of this rule, any discharge of sediment as a result of the bed disturbance complies with the conditions of rule 36.2.2.4 or rule 36.2.3.1.

Notes

1. Maintenance of land drainage does not include any activity that may result in the drainage of existing naturally occurring wetlands, unless rule 31.1.6.1 is complied with.
2. Total control and progressive control pest plants are as listed in the Council's Tasman-Nelson Regional Pest Management Strategy.

28.1.7 Planting

28.1.7.1 Permitted Activities (Planting)

NOTE: Rule 28.1.7.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

The introduction or planting of any plant or any part of any plant in, on, or under the bed, including the banks, of a lake or river and any associated bed disturbance is a permitted activity, if it complies with the following conditions:

- (a) The activity complies with the general conditions of rule 28.1.2.1.
- (b) The planting is located and maintained so that it does not:
 - (i) cause or contribute to erosion or scour of the bed, including the banks of the river; or
 - (ii) cause or contribute to an increase in flooding of land, not including the bed.
- (c) There is no planting of crack or grey willow (*Salix fragilis* or *Salix cinerea*).

Notes

1. The Council's Tasman-Nelson Pest Management Strategy lists plants which must not be planted or propagated anywhere in the District (including in the beds of rivers or lakes).
2. Planting on or near river beds and banks can eventually reduce or obstruct river flows, or cause widening or scouring of river beds. Advice about appropriate plant species and planting design is in the Council's Good Practice Guideline to Riparian and River Bank Planting or from the Council's native plant restoration lists.

28.1.7.2 Restricted Discretionary Activities (Planting)

The introduction or planting of a plant or any part of a plant in, on, or under the bed or bank of any lake or river and any associated bed disturbance that does not comply with the conditions of rule 28.1.2.1 or rule 28.1.7.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed in respect of the following matters over which the Council has reserved discretion.

- (1) The location, extent, timing and duration of the activity.
- (2) Plant varieties, including controls on height at maturity.
- (3) Provision for and maintenance of the passage of fish.
- (4) Effects of planting and mature plants on the safe passage of flood water.

- (5) Potential adverse effects of the activity on areas of indigenous vegetation and habitats of indigenous fauna and aquatic habitats.
- (6) Measures to prevent damage to riparian vegetation or soil.
- (7) The potential adverse effects on bed and bank stability and water quality.
- (8) Adverse effects on upstream or downstream properties and structures.
- (9) Safe navigation.
- (10) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (11) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (12) Financial contributions, bonds and covenants in respect of the performance of conditions and administration charges (Section 108 of the Act).

Non-Notification

Applications for resource consent for an activity under this rule will be decided without public notification and without limited notification.

28.1.8 Structures, Bed Disturbances and Planting

28.1.8.1 Discretionary Activities (Structures, Bed Disturbances and Planting)

Any activity associated with a structure, bed disturbance, or planting in, on, under, or over the bed of a river that does not comply with the conditions of rule 28.1.2.1, 28.1.3.1, 28.1.4.1, 28.1.6.1 or 28.1.5.2 is a discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed.

When considering an application for consent, the Council will have regard to the following criteria:

General

- (1) Provision for and maintenance of the passage of fish.
- (2) Safe passage of flood water.
- (3) Potential adverse effects of the activity on indigenous biodiversity, including indigenous vegetation and aquatic habitats.
- (4) Measures to prevent damage to riparian vegetation or soil.
- (5) The potential adverse effects on bed and bank stability and water quality.
- (6) Adverse effects on the natural character and amenity of the river or lakes and effects on public access to the river, and values and uses, including those listed in Schedule 30A.
- (7) Safe navigation and the maintenance of public access, where appropriate.
- (8) Measures to prevent damage to any cultural heritage site, including those listed in Schedule 16.13C.

- (9) Monitoring compliance with conditions, effects of the activity on the environment, and the provision of information to Council.
- (10) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (11) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

Structures

- (12) The design, location, construction and maintenance of the structure, including preparation of construction management plans.
- (13) Adverse effects of the activity on upstream or downstream properties and other structures.

Culverts, Fords and Bridges

- (14) The design, location and construction of the structure, including the invert level of the culvert or ford and preparation of construction management plans.
- (15) Techniques for ensuring safe passage of flood water (spillway requirements), including fill material used in construction.

Bed Disturbances

- (16) The location, extent, timing and duration of the activity.
- (17) Opportunities for enhancing bed stability, meander pattern, channel morphology, bed substrate or other aspect of habitat adversely affected by the activity.

28.1.20 Principal Reasons for Rules

Structures, Culverts, Fords and Bridges

The rules regulate structures, including culverts, fords, bridges, fences, pipes and cables. The rules permit small-scale structures to be constructed over or in the bed of a river or lake and require resource consents to be applied for larger structures where potential adverse effects are more significant. These rules also generally permit activities required for the maintenance and repair of existing structures.

New small scale structures are permitted as they generally have very minor effects on a water body provided they continue to be carefully constructed and maintained. Periodic floods may cause debris to build up or cause erosion or scour around the structure and on-going maintenance is important to avoid causing damage to the bed or banks of the river or adverse effects to other structures in the river or to neighbouring properties.

Most culverts and fords are permitted activities subject to some performance standards to limit adverse effects. Adverse effects of culverts are able to be accounted for through appropriate culvert design. New culverts will need to allow fish passage and be properly constructed to avoid impeding floods or causing scour or erosion.

The rules also permit existing structures, including culverts provided the same performance standards are complied with. It is probable that there are a number of existing culverts that were installed without authorisation under the Regional Plan or under the Act. Many of these culverts are likely to be well designed, installed and maintained and these existing culverts are generally provided as permitted activities. However, if flood flow or fish passage is significantly adversely affected, improvements to the culvert may be required. Where there is a natural fish passage impedance, such as a waterfall not far upstream or downstream of the proposed or existing culvert, the design of the culvert would take this into account.

Council will provide information to landowners about culvert design, construction and maintenance to assist them in identifying best management practices. The Council is also developing an inventory showing where culverts are causing fish passage issues, particularly for watercourses with significant value for native fish or trout habitat. Council will establish programmes for restoring fish passage past existing structures like culverts in consultation with landowners and industry groups according to priorities established in the policies. The rules for existing culverts and fords will not apply until five years after the operative date of these provisions. This will enable Council and other landowners to manage and plan for any works that may be necessary to meet the conditions.

The subsequent diversion and discharge of water through the culvert is provided for in the rules chapters 31 and 36.

Bridges with single spans are considered to be structures that would have minor adverse effects on the river if built in accordance with the conditions specified. Rivers associated with bridges over which bridges of this span pass are unlikely to be navigable waterways, and provided the design is appropriate, the bridge is unlikely to impede river flow.

Permitting culverts and small bridges is also a way of supporting farmers who are considering use of these structures as a way of avoiding adverse effects caused by livestock crossing the beds of rivers. Building consents are still required for bridges and some culverts so that safety aspects can be addressed.

Bridges that have a pier in or on the bed are likely to require specialist design. Rivers of this size may also be navigable. The scale of work in the bed of the river during construction will have a greater potential to cause adverse effects. These bridges have the potential to have significant adverse effects on water and flood flow and have potential to cause adverse effects on the stability of beds and banks of rivers, and are therefore restricted discretionary activities.

Larger bridges will need both resource consent and a building consent, but where appropriate, Council will process both applications together to reduce compliance costs for applicants.

Bridges and culverts can have an impact on wild and scenic values such as those protected by the water conservation orders or in rivers that have a high level of naturalness. In these areas, conditions on a resource consent will enable Council to control adverse effects on these river values.

Extreme events such as flooding, landslips or earthquakes can cause damage to river bed and bank stability or flood-carrying capacity. Damage can also be caused to structures and adjacent land. In some cases repair work is immediately required to prevent ongoing damage or repair damage so that structures such as bridges and culverts can continue to function.

Works that are immediately required to prevent ongoing damage or further damage to structures are permitted by the rules, with some exceptions. In some cases, safety considerations or availability of resources means that these emergency works may be carried out after the event has passed. In considering when the required works continue to be emergency works or where they can be carried out as routine repairs and maintenance, landowners and Council need to consider the urgency of the works and the extent to which they are immediately required to remedy or prevent continuing damage or allow for proper functioning of structures. Where there is discretion as to the timing of the works or where restrictions regarding sediment control are appropriate, the works will no longer be considered emergency works.

Bed Disturbance

Bed disturbance includes any excavation, dredging, drilling, tunnelling, and any intentional widening, deepening or alteration of the course of a water body. It also includes maintenance activities to clear build up of sediment in the beds of those rivers which are modified watercourses to improve drainage of adjacent land or maintain efficient water flow.

These activities have the potential to change the natural functioning of the river, including flood flows, and effects may be localised or impact on the river both upstream and downstream of the activity. They have the potential to impact on rates of erosion, river channel alignment and structure stability. Bed disturbances may affect the hydrological regime and cause adverse effects on aquatic habitat because of sediment releases or habitat destruction.

Where the bed disturbance occurs in the wet bed, i.e. in that part of the bed of a lake or river which is covered by water, sediment will be mobilised. The mobilisation of sediment, depending on the scale of the activity, can reduce the clarity of the water by increasing its turbidity. Reduced clarity of water can adversely affect natural and human use values supported by the lake or river, or other users of the water body. Rules to manage adverse effects of sediment as a result of bed disturbances in rivers are contained in Chapter 36.

The removal of aquatic plant pests and sediment from rivers, streams, modified watercourses and lakes is periodically required to maintain the efficiency of drainage networks and to restore drainage outfall.

Maintenance of drainage functions of farm drainage canals (or ditches) and some modified watercourses can be important for maintaining land drainage and farm productivity. Even though some of these ditches are not rivers for the purposes of Part IV, they can support aquatic ecosystems, habitats and areas of significant vegetation, and drain maintenance can impact on receiving water quality. Adverse effects of farm drain maintenance can be mitigated through the adoption of best management practices. Council will prepare information about best practices to minimise adverse effects associated with drainage maintenance.

A combination of land, channel margin and instream management practices can be required to properly address a drainage issue. Best management practice can help identify measures to reduce the frequency of bed disturbances to maintain drainage. The removal of aquatic weeds and plants and sediment from rivers, streams, modified watercourses and lakes is therefore a permitted activity subject to conditions. Other measures to minimise adverse effects will be promoted through good practice guides for drainage management activities.

There is probably a large range of activities currently being undertaken in a range of situations (rivers and drains) without consent. The conditions that apply to these activities will provide certainty for landowners as to the extent to which activities can continue to be permitted and where likely adverse effects are potentially more significant and resource consents are required.

Some small-scale activities can be undertaken in the beds of rivers as potential impacts can be minimised by appropriate conditions. Other activities in the beds of rivers will require resource consent because there is significant potential for adverse effects in the dynamic river environment and the nature of the adverse effects will be site specific.

Planting

The introduction of vegetation into the beds of lakes and rivers can potentially compromise values associated with conservation and amenity values, including the loss of biodiversity, water quality and reducing the flood-carrying capacity of rivers.

However, planting is often carried out along and in the beds of rivers to provide bed and bank stability and flood protection. These plantings can also provide aquatic habitat and contribute to biodiversity and water quality values.

The Act does not allow the introduction of any vegetation unless there is a rule in a plan or a resource consent providing for it. In order to meet the requirements of the Act (in particular Section 30 - soil conservation and flood protection, as well as Part II matters of national importance) there is a need to allow planting to be undertaken as permitted activities where effects are beneficial or adverse effects are minor.

Chapter 29 details the information required with a land use consent application under this section.

28.2 DAMS AND WEIRS

Refer Policy sets 27.1.3 – 27.7.3. 27

28.2.1 Scope of Section

The rules in this section regulate dam structures, including weirs, in the bed of any river or lake. These apply in addition to rules regulating the damming, diversion and discharge of water in rivers and lakes in sections 31.1.3, 31.1.4 and 36.2 in parts V and VI of the Plan. Information required with land use consent applications is detailed in Chapter 29.

Advice Note: The Resource Management (National Environmental Standard for Freshwater) Regulations 2020 may apply to some activities, including farming activities and activities in or near wetlands and rivers. The National Environmental Standard may alter the activity status of an activity and impose additional standards, information requirements, matters for assessment and criteria. Please ensure you have met any requirements in the regulations in addition to those in this plan.

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28.2.2 Dam Structures

28.2.2.1 Permitted Activities (Dam Structures)

The use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any dam structure that is in or on the bed of a lake or river, or any associated deposition or necessary bed disturbance is a permitted activity, if it complies with the following conditions:

- (a) The dam is not on any river or lake subject to any water conservation order.
- (b) The dam is not on any river or lake in the area enclosed by:
 - (i) the Slope Instability Risk Area;
 - (ii) Land Disturbance Area 2; or
 - (iii) within 100 metres of an active faultline;
 as shown on the planning maps.
- (c) The:
 - (i) volume of water capable of being impounded by the dam does not exceed 5,000 cubic metres; and
 - (ii) surface catchment area for the dam is less than 20 hectares; and
 - (iii) maximum depth of the impounded water in the dam is less than three metres (see Figure 28.1A); and
 - (iv) area covered by the impounded water does not cover any naturally-occurring wetland; and
 - (v) minimum crest width of the dam is 3 metres.
- (d) The flow of any perennial river is less than 2 litres per second and, where there is a perennial flow, the dam provides for fish passage, including eels.
- (e) For any dam constructed after 27 February 2010 all parts of the dam, including the spillway and impounded water up to the maximum level, are set back at least:
 - (i) 10 metres from road boundaries or indicative road boundaries; and
 - (ii) 5 metres from internal boundaries.

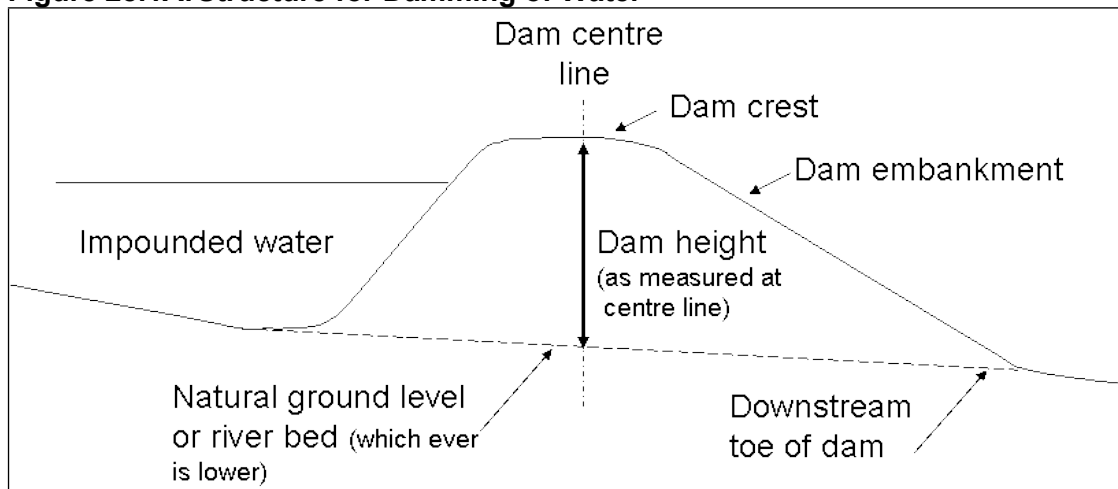
- (f) The dam spillway is designed to pass a 2 percent annual exceedance probability rainfall event and is constructed and maintained so that there is no scour to the spillway structure or downstream bed, including the banks, and is kept free from debris.
- (g) Any discharge of water from the dam, including from the spillway, is back into the same river.
- (h) Grass spillways are maintained to prevent saturated soil conditions.
- (i) Erection or placement of the dam does not cause any increase in erosion, scour, flooding or deposition, or impede drainage beyond the property boundary.
- (j) Any discharge of sediment as a result of the bed disturbance complies with the conditions of rule 36.2.2.4 or rule 36.2.3.1.
- (k) The dam is maintained in good structural condition at all times.
- (l) The dam embankment and the area within 5 metres of the toe of the embankment is maintained clear of trees, any vegetation more than 1.5 metres in height, and any vegetation that prevents inspection of the dam embankment.
- (m) For any reconstruction, alteration, or repair, there is no permanent change to the character, scale, nature or functions of the structure.
- (n) Where a dam is removed or demolished, no part of the structure remains in the bed or on the bank of the river or lake, and the bed profile is returned to its natural form, as far as practicable.
- (o) There is no refuelling of equipment during construction, maintenance, or demolition of the dam on any part of a river or lake bed.
- (p) No topsoil, vegetation, or gravel is used as embankment fill.
- (q) Embankment fill is compacted to achieve a minimum of 95 percent of optimum density.
- (r) Batters on both the upstream and downstream sides of the embankment and the overflow spillway side slopes are not steeper than 2 (horizontal) to 1 (vertical).
- (s) No part of the overflow spillway passes over the dam embankment.
- (t) A low flow pipe to set the upper limit of the normal water level behind a dam may be installed either:
 - (i) through parent material;
or
 - (ii) through the dam embankment,
provided:
 - (a) it is not less than 0.3 metres below the spillway invert;
 - (b) the slope of the pipe is not steeper than 10 percent;
 - (c) a seepage collar of minimum dimensions 1 metre x 1 metre x 0.1 metre thick surrounds the pipe at its halfway point;
 - (d) backfill around the pipe and seepage collar is in layers no more than 0.1 metres thick and compacted into place around the pipe to a depth of 0.6 metres before passing any machinery over it;and in any case:
 - (e) a concrete collar surrounds both intake and outfall ends of the pipe;

- (f) the pipe discharges directly to the channel downstream of the dam and scour protection constructed at the outlet.

Notes

1. The construction of dams that retain 3 or more metres of water in depth and hold 20,000 or more cubic metres in volume of water are large dams, require a building consent under the Building Act and are subject to the Dam Safety Scheme under that Act. Dams smaller than this do not require building consent but they must comply with the Building Code to the extent required under the Building Act provisions. The building consent considers design and safety aspects of the dam structure. The Council may require both consents to be made together and may process applications at the same time.
2. “Dam Height” is measured from the natural ground level existing prior to the dam construction, to the dam crest at its maximum height measured along the dam centre line. (Refer Figure 28.1A)
3. Rule 36.2.2.8 allows for the discharge of water from a dam back into the downstream water body.

Figure 28.1A: Structure for Damming of Water



Means of Compliance

The Council’s Good Practice Guide for the Construction of Small Dams (2000) and the “NZSOLD Guidelines for Constructing Earth Dams” contain measures that must be adhered to, as appropriate, in order that the conditions of this rule can be complied with.

28.2.2.2 Permitted Activities (Dam Structures – Existing Structures)

The use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any dam structure that is in or on the bed of a lake or river, or any associated deposition or necessary bed disturbance is a permitted activity, if it complies with the following conditions:

- (a) The dam is an existing structure that is subject to any condition on a current water permit requiring the monitoring and management of the failure hazard risk of the structure.
- (b) The dam is not a dangerous dam as defined by the Building Act.

Note: The Building Act defines what is meant by ‘a dangerous dam’ as follows:

A dam is dangerous for the purposes of this Act if the dam—

- (a) *is a high potential impact dam or a medium potential impact dam; and*
- (b) *is likely to fail—*
 - (i) *in the ordinary course of events; or*
 - (ii) *in a moderate earthquake (as defined in the regulations); or*
 - (iii) *in a moderate flood (as defined in the regulations).*

28.2.2.3 Controlled Activities (Dam Structures – Renewal)

The use, reconstruction, alteration or extension of any dam structure for damming water that is fixed in or on the bed of a lake or river, or any associated deposition or necessary bed disturbance that does not comply with the conditions of rule 28.2.2.1 or rule 28.2.2.2 is a controlled activity, if it complies with the following conditions:

- (a) The applicant for the land use permit in respect of the dam is the holder of:
 - (i) a water permit to dam; or
 - (ii) a land use consent for the dam structure;that is due for renewal, and Section 124 applies.
- (b) The dam is not a dangerous dam as defined by the Building Act.
- (c) The dam spillway is constructed and maintained so that there is no scour to the spillway structure or downstream bed, including the banks, and is kept free from debris.
- (d) Grass spillways are maintained to prevent saturated soil conditions.
- (e) The dam embankment and within 5 metres of the toe of the embankment is maintained clear of trees, any vegetation more than 1.5 metres in height, and any vegetation that prevents inspection of the dam embankment.

A resource consent is required. Conditions may be imposed only in respect of the following matters over which Council has reserved its control:

- (1) The preparation of a structural report from an appropriately competent chartered professional engineer practising in civil engineering.
- (2) Effects on river bed and bank stability upstream and downstream of the dam.
- (3) Effects on other water users, downstream landowners and landowners affected by the dam structure or impounded water, including modified downstream flows and effects of failure.
- (4) Effects on fish and eel passage.
- (5) Degree of compliance with the current New Zealand Society of Large Dams guidelines, with the Building Act requirements and with the Good Practice Guide for the Construction of Small Dams (2000) guidance, relating to:
 - (a) maintenance of the dam;
 - (b) structural stability of the dam and potential effects of dam failure;
 - (c) spillway design and capacity, including overtopping hazard risk;
 - (d) preparation of an emergency management plan.
- (6) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (7) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (8) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

28.2.2.4 Discretionary Activities (Dam Structures)

The use, erection, reconstruction, placement, alteration, extension, removal or demolition of any structure for the damming of water that is fixed in or on the bed of a lake or river, or any associated deposition or necessary bed disturbance, that does not comply with the conditions of rule 28.2.2.3, is a discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed.

When considering an application for consent, the Council will have regard to the following criteria:

- (1) Dam design, construction, supervision, and certification by an appropriately competent chartered professional engineer practising in civil engineering, and including certification from other appropriate competent persons in dam design and construction.
- (2) Preparation of a management plan for the duration of the construction and commissioning of the dam, including management of sediment and rehabilitation work.
- (3) Effects on river bed and bank stability upstream and downstream of the dam.
- (4) Effects on other water users, landowners and dwellings potentially affected by the dam structure or impounded water, including modified downstream flows and effects of failure.
- (5) Effects on fish and eel passage.
- (6) Setbacks from road and property boundaries.
- (7) Degree of compliance with the current New Zealand Society of Large Dams guidelines, with the Building Act requirements and with the Good Practice Guide for the Construction of Small Dams (2000) guidance, relating to:
 - (a) maintenance of the dam;
 - (b) structural stability of the dam and potential effects of dam failure;
 - (c) spillway design and capacity, including overtopping hazard risk;
 - (d) preparation of an emergency management plan.
- (8) Measures to avoid, remedy or mitigate adverse effects on the natural character and amenity of the river and effects on public access to the river and on other uses of the river, including those listed in Schedule 30A.
- (9) Monitoring compliance with conditions, effects of the activity on the environment and the provision of information to Council.
- (10) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (11) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

Note: No consents can be granted that are contrary to a water conservation order.

28.2.20 Principal Reasons for Rules

The construction of small dam structures in small catchments is a permitted activity because the adverse effects of such a structure are likely to be minor. This is because the contributing catchment is small with most dams this size being in the Moutere area or at a very high level in a catchment. Contributing streams

in these small catchments are generally ephemeral, especially those constructed in Moutere gravel terrain. In most cases, the effects of the associated damming of the water are also likely to be beneficial through the augmentation of water. This approach is complemented by allowing the damming of water in small catchments in Chapter 31. Because these upper catchment areas tend to have lower ecosystem values all year round, minimum flow by-pass measures are not required.

Renewal of authorisations for existing dams will be controlled activities and, unless the dam is unsafe or not maintained, there is little reason to refuse consent and require removal of the dam. Council can, however, consider conditions to avoid, remedy or mitigate adverse effects from such dams. This process also enables Council to review the consent and ensure appropriate management and structural stability of the dam over time.

The impact of large-scale dams on river bed and bank stability as well as on other uses and values, including recreation, landscape, public access and abstractive uses, can be significant. Ongoing maintenance requirements and potential adverse effects from dam failure are also more significant as dam size increases. For these reasons, Council will require a consent application for large dams and will require all existing dams to be authorised by a resource consent or through existing conditions on relevant water permits held for damming the water until these permits expire. These provisions complement similar rules for the damming and discharge of water by such structures to address adverse effects on stream hydrology, ecology and water quality.

Council's policies and rules relating to the effects of dam structures in Part IV of the Plan include assessment of structural stability, which is also considered under the Building Act 2004 because a dam is a building for the purposes of that Act. Council is required under the Building Act to identify and deal with dangerous dams.

Most dams in Tasman are earth dams constructed of Moutere Gravels and have a low probability of failure. However, dam failures do occur and some existing dams pose a risk to persons or cause significant damage to properties beyond the immediate property boundary. These risks are addressed for some dams through water permits to dam the water, rather than current land use consents that authorise the structure itself. Once any relevant water permits have expired, Council will seek land use consents for the ongoing presence of the structure in the bed. If there are no applicable conditions on relevant water permits, a land use consent to authorise the permit will be required.

Land use below dams could become a relevant consideration for applications for renewal of existing dams or applications for subdivision below existing dams as many Tasman dams that were built only to rural standards for irrigation may now be or become surrounded by houses.

Council will take into account potential adverse effects of existing dams when considering subdivision below dams to avoid creating risks to property and people resulting from any dam failure.

28.3 ENTERING OR PASSING ACROSS BEDS

Refer to Policy sets 27.1.3, 27.4.3, 27.7.3, 33.1..

28.3.1 Scope of Section

The rules in the section regulate passage across the bed of a river or lake by vehicles and stock. They apply in addition to rules regulating the discharge of contaminants in section 36.2 in Part VI of the Plan. Information required with land use consent applications is detailed in Chapter 29.

Advice Note:NES-FW (ca)
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1. The Resource Management (National Environmental Standard for Freshwater) Regulations 2020 may apply to some activities, including farming activities and activities in or near wetlands and rivers. The National Environmental Standard may alter the activity status of an activity and impose additional standards, information requirements, matters for assessment and criteria. Please ensure you have met any requirements in the regulations in addition to those in this plan.
2. Resource Management (Stock Exclusion) Regulations 2020 may apply to stock access to rivers, lakes and wetlands. The regulations may impose additional standards and requirements. Please ensure you have met any requirements in the regulations in addition to those in this plan.

28.3.2 Entering or Passing across Beds – Vehicles**28.3.2.1 Permitted Activities (Entering or Passing across Beds – Vehicles)**

NOTE: Rule 28.3.2.1 is subject to the regulations of the National Environmental Standards Plantation Forests 2017 (NES-PF). The NES-PF regulations for activities in relation to plantation forestry (as defined within the NES-PF) prevail unless specifically stated otherwise in advice notes below.

Except as regulated by 28.4.2.1, the entering or passing across any bed of a river or lake by a vehicle or motorised machinery and any associated disturbance of the bed is a permitted activity, if it complies with the following conditions:

- (a) There is no entering or passing over the bed of Te Waikoropupu Springs except:
 - (i) where the activity is for the maintenance or protection of the Springs or associated structures, or
 - (ii) for scientific or research investigation;and
 - (iii) Manawhenua ki Mohua is notified at least two working days prior to the activity commencing.
- (b) Any sediment discharged as a result of the crossing of the bed or bed disturbance complies with the conditions of rule 36.2.2.4 or rule 36.2.3.1.
- (c) The vehicle or machine enters and passes across the river by the shortest practicable route across the river.
- (d) There is no disturbance by the use of vehicles or motorised machinery from October to February inclusive of any river bed location listed in Schedule 30A as having a black-fronted tern nesting site.
- (e) There is no disturbance by the use of vehicles or motorised machinery from October to December inclusive in any year of any river bed location listed in Schedule 30A as having a black-billed gull nesting site.

- (f) Noise generated by the activity, measured at or within the notional boundary of a dwelling, does not exceed:

	Day	Night
$L_{Aeq} (15min)$	55 dBA	40 dBA
L_{AFmax}		70 dBA

- N.B. Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).
Night = All other times plus public holidays except that the L_{AFmax} does not apply between 7.00 am to 9.00 pm.

This condition does not apply to all noise from any intermittent or temporary rural activity, including noise from:

- (i) mobile horticultural and agricultural equipment;
- (ii) forest and tree harvesting activities;

Advice Note: Clause (f)(ii) does not apply to plantation forestry noise which is managed by NES-PF regulation 98.

- (iii) river management (erosion control and floodway management) activities
- (iv) the maintenance and construction of authorised structures
- (v) craft on the surface of rivers and lakes

Noise must be measured and assessed in accordance with the provisions of NZS 6801:2008 *Acoustics – Measurement of Environmental Sound* and NZS 6802:2008 *Acoustics – Environmental Noise*.

Note: Any entry into Te Waikoropupu Springs also requires authorisation from the Department of Conservation. Te Waikoropupu Springs includes all water bodies within the Te Waikoropupu Springs Scenic Reserve.

28.3.2.2 Restricted Discretionary Activities (Entering or Passing across Beds – Vehicles)

The entering or passing across any bed of a river or lake by a vehicle or motorised machinery and any associated disturbance of the bed that does not comply with the conditions of rule 28.3.2.1 is a restricted discretionary activity, if it complies with the following conditions:

- (a) There is no entering or passing over the bed of Te Waikoropupu Springs

A resource consent is required. Consent may be refused or conditions imposed in respect of the following matters over which the Council has restricted discretion.

- (1) The location, type of vehicle or machine, and frequency, timing and duration of the activity.
- (2) Length of river or lake bed disturbance.
- (3) Adverse effects on amenity and landscape values of the river or lake and its immediate surrounds and on any river or lake values, including those listed in Schedule 30A, and including nesting birds and fish spawning sites.
- (4) Adverse effects of noise.
- (5) Adverse effects on public access to the river or lake.
- (6) Potential for conflict with other users of the river or lake.

- (7) Adverse effects on river or lake bed or bank stability.
- (8) Effects on water quality.
- (9) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (10) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (11) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

28.3.2.3 Non-Complying Activities (Entering or Passing across Beds – Vehicles)

The entering or passing across any bed of a river or lake by a vehicle or motorised machinery and any associated disturbance of the bed that does not comply with the conditions of rule 28.3.2.2 is a non-complying activity.

A resource consent is required. Consent may be refused or conditions imposed.

28.3.3 Entering or Passing across Beds – Stock

28.3.3.1 Permitted Activities (Entering or Passing across Beds – Stock)

The entering or passing across any bed of a river or lake by livestock or any associated disturbance of the bed is a permitted activity, if it complies with the following conditions:

- (a) There is no entering or passing over the bed of Te Waikoropupu Springs.
- (b) Any sediment or disease-causing organisms discharged as a result of the crossing or bed disturbance complies with the conditions of rule 36.2.2.4, 36.2.2.5 or 36.2.2.8.
- (c) The bed is not used as a standoff for stock and there is no feeding out of supplementary feed on the bed of any lake or river.
- (d) Livestock access to the river bed, including the banks, from 15 February to 31 May in any year, within 1 kilometre of the river mouth, does not cause damage to inanga spawning habitat (the principal whitebait species).
- (e) There is no disturbance by stock from 1 May to 30 September in any year on any part of the bed covered by water in rivers listed in Schedule 30A as trout spawning rivers.
- (f) Except for crossings allowed by rule 36.2.2.5 (a)(i), at any time after 1 June 2012 there is no entering or passing across a permanently flowing river bed with a wetted width of more than one metre by dairy cows.

28.3.3.2 Restricted Discretionary Activities (Entering or Passing across Beds – Stock)

The entering or passing across any bed of a river or lake by livestock, or any associated disturbance of the bed that does not comply with the conditions of rule 28.3.3.1 is a restricted discretionary activity, if it complies with the following conditions:

- (a) There is no entering or passing over the bed of Te Waikoropupu Springs.

A resource consent is required. Consent may be refused or conditions imposed in respect of the following matters over which the Council has restricted discretion.

- (1) The location, frequency, timing and duration of the activity.
- (2) Adverse effects on amenity and landscape values of the river or lake and its immediate surrounds and on any river values, including those listed in Schedule 30A.
- (3) Adverse effects on public access to the river or lake.
- (4) Potential for conflict with other users of the river or lake.
- (5) Adverse effects on river or lake bed or bank stability.
- (6) Adverse effects on biodiversity values of indigenous species and aquatic habitat, including indigenous vegetation and fauna, especially nesting birds and fish spawning sites.
- (7) Effects on water quality.
- (8) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (9) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (10) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

28.3.3.3 Non-Complying Activities (Entering or Passing across Beds – Stock)

The entering or passing across any bed of a river or lake by livestock and the associated disturbance of the bed that does not comply with the conditions of rule 28.3.3.2 is a non-complying activity.

A resource consent is required. Consent may be refused or conditions may be imposed.

28.3.20 Principal Reasons for Rules

The location of activities, such as the use of vehicles (including recreational vehicles such as four wheel drives and motorbikes) or machinery in the bed may damage the bed, including the banks of the rivers. Passage across the river may also result in significant amounts of sediment entering the water and adversely affecting aquatic habitat and visual clarity of the water.

Bird Habitats

Vehicles can disrupt the breeding success of riverbed breeding birds or damage sites of significant indigenous flora. There are four indigenous bird species that breed on Tasman's shingle river systems; black-fronted terns, banded dotterels, black-billed gulls and pied oystercatchers. Of these the black-fronted terns and black billed gulls are regarded as being in decline and tend to nest in colonies. The areas favoured by the birds for nesting have been identified in Schedule 30A. Banded dotterel are also in decline, but these birds tend to nest as pairs and the areas they nest in are relatively widespread. Noise and disturbance from vehicles close to nesting sites can cause birds to leave for sufficiently long periods that breeding fails, or to abandon the eggs or young altogether.

Water Quality

Council seeks to reduce the impact of non-point source discharges on surface water quality by preventing or minimising the entry of contaminants into water and to maintain the integrity of beds and banks by preventing or minimising damage to the beds or banks of rivers.

Where livestock has unrestricted access to surface water bodies or are regularly driven through water bodies, they can adversely impact on the quality of the water, the aquatic habitat and the bed and bank integrity. Deer and pigs are particularly known to cause water quality problems where they have direct access to the water.

Where adjacent land use involves intensive farming of livestock, the cumulative effects of stock access to water or crossings can have significant adverse impacts on water quality and instream or recreation values and streambank erosion. A variety of methods are available to improve water quality, depending on the type of farming system. For example, adverse water quality and erosion effects caused by frequent crossings by dairy herds can be avoided by constructing bridges or culverts. Fencing along waterways to exclude stock can mitigate adverse effects of intensive farming. Provision of alternative water supplies or shade can also help mitigate adverse water quality effects from stock.

Council acknowledges that the cost of such measures can be significant. It seeks to work with existing industry initiatives that address property specific water quality issues such as the dairy industry's Clean Streams Accord or the Primary Sector Water Partnership.

Council policies and methods recognises the preferred approach is for individuals and communities to work together to modify their everyday practices to reduce the effects of non-point source discharges and to improve aquatic habitats. A community working together is likely to be more effective at achieving widespread improvements to water quality in rivers and streams.

In implementing the policies seeking to avoid, remedy and mitigate adverse effects of stock access to waterways, the Council's priorities will be to work closely with industry groups and to provide advice and information to help landowners in developing farm plans where necessary.

Council will also allow most culverts and small bridges to be constructed as permitted activities. Information on standard building design for bridges and culverts will also be prepared to assist landowners.

Council has established criteria in section 33.1 in Part VI for setting priorities to guide the community and Council efforts to restore water quality where it has declined.

Te Waikoropupu Springs

The Council has also recognised the particular values of Te Waikoropupu Springs by including provisions that prevent any entering or passing across the beds of the Springs. Risk of didymo invasion is of particular concern, but the very high cultural and amenity values also require this level of protection.

No entering or passing over the bed of the Springs is permitted by these rules unless it is required for maintenance or investigation. An application for any other access to the Springs will be considered as a non-complying activity.

28.4 ACTIVITIES ON THE SURFACE OF RIVERS AND LAKES

Refer Policy sets 27.6.3.

28.4.1 Scope of Section

The rules in this section regulate activities on the surface of rivers and lakes. Information required with land use consent applications is detailed in Chapter 29.

28.4.2 Activities on the Surface of Rivers and Lakes

28.4.2.1 Permitted Activities (Activities on the Surface of Rivers and Lakes)

The entering or passing across the surface of the water in a river or lake by craft is a permitted activity, if it complies with the following conditions:

- (a) There is no entry to or passing across the surface of Te Waikoropupu Springs except:
 - (i) where the activity is for the maintenance or protection of the Springs or associated structures, or
 - (ii) for scientific or research investigation,and
 - (iii) Manawhenua ki Mohua is notified at least two working days prior to the activity commencing.
- (b) There is no commercial operation of craft.

Notes

1. The Department of Conservation Reserves Management Plan for Te Waikoropupu Springs also requires authorisation from the Department for entry into the Springs.
2. Activities in a national park may also require approval from the Department of Conservation.
3. The Council's Bylaw for Navigation Safety contains provisions to manage boat speed.

28.4.2.2 Discretionary Activities (Activities on the Surface of Rivers and Lakes)

The entering or passing across the surface of the water in a river or lake by craft that does not comply with the conditions of rule 28.4.2.1 is a discretionary activity, if it complies with the following conditions:

- (a) There is no entering or passing across the surface of Te Waikoropupu Springs.

A resource consent is required. Consent may be declined or conditions imposed.

When considering an application for consent, the Council will have regard to the following criteria:

- (1) Adverse effects on the river or lake and its immediate surrounds and adverse effects on uses and values, including those identified in Schedule 30A or in any water conservation order.
- (2) Adverse effects of noise.
- (3) Adverse effects on public access to the river or lake and adverse effects of congestion at points of access.

- (4) Potential for conflict with existing authorised or permitted uses of the river.
- (5) Adverse effects on river bed or bank stability.
- (6) Adverse effects on aquatic habitat and bird nesting areas on river beds.
- (7) Extent and effects of associated structures, whether in or over the water or on the adjoining land.

28.4.20 Principal Reasons for Rules

The natural environment of the District is dominated by mountains, lakes and rivers. The varied lakes and rivers provide the basis for a wide range of recreational opportunities, both private and commercial, from jet-boating and rafting to angling, picnicking and swimming.

There is increasing recreational activity on the Buller River and other nearby rivers. There is less recreational pressure by motorised craft on the Motueka River and its tributaries, although kayak and canoe use is significant.

The continued pleasantness, integrity, diversity and safety of the rivers are essential to the economic welfare of the District and to the enjoyment of the District's natural resources by residents and visitors both now and in the future. Overcrowding and over-use of the rivers can result in adverse effects, which could undermine the characteristics valued in the District's rivers.

The District's major lakes (Rotoiti and Rotoroa) are within the Nelson Lakes National Park and any commercial and recreational activity is regulated by the Department of Conservation through the Nelson Lakes National Park Management Plan.

The use of lakes and rivers inevitably involves demand for the construction of structures and facilities alongside or in the margins of the rivers and use of the bed by vehicles. This can involve jetties, launching ramps, toilet and changing facilities and administrative facilities for commercial operations. Such facilities and structures may result in adverse environmental effects relating, for example, to their visual impact; the concentration of pedestrian, vehicle and boating activity; oil and fuel spillages; noise; and the alienation of the river from general public use. Some of these land based activities will already require consent under Part II rules. Others will be managed by relevant rules in this chapter.

All motorised boats can make noise, cause wash and travel at high speeds affecting the environment and other river users in some way. Similarly, all crafts and kayaks require putting in and out of the water and intrude to some degree into the wilderness qualities of remote areas.

The degree to which activities are dominated by private or commercial users depends to some extent on the time of the year, although summer is usually busier. The commercial operators are generally more predictable, known elements and the private boaters being less predictable.

The rules distinguish between private and commercial operators because the number of boating trips undertaken by the commercial operators could outnumber private recreational use. The adverse effects could be substantial where there are high numbers of regular commercial trips and the continuation of these trips throughout the year. Some commercial boats, such as jetboats and hovercraft, are quite different from recreational boats, with greater potential for adverse effects on the surrounding environment. The commercial jet boats, for example, are mostly significantly larger boats with more powerful and potentially noisier engines.

Some craft such as hovercraft and jet-skis are inherently noisy. This noise can be disruptive in rivers or lakes with high levels of natural character or remoteness.

The District contains some difficult stretches of river, which could come under more pressure for intensive use, especially from commercial operations. At some point, the level of use of those stretches of the rivers

could be such as to give rise to adverse environmental safety and effects. The rules provide an opportunity for Council to consider and manage these adverse effects.

Activities such as diving and swimming in Te Waikoropupu Springs create adverse effects on the mana whenua values, creates an unacceptable risk of didymo invasion and conflict with the amenity values of the Springs. While now prevented by reserve bylaw administered by the Department of Conservation, there was evidence that increasing diving and swimming pressure was causing adverse effects on the fragile aquatic habitat of the Springs and this part of the Plan also addresses this effect.

A high level of regulation for activities on the surface of Te Waikoropupu Springs reflects the significant adverse effects of such activities on the amenity and cultural values of the Springs.

28.5 GRAVEL EXTRACTION

Refer Policy sets 27.1.3, 27.3.3, 27.5.3, 27.7.3.

28.5.1 Scope of Section

The rules in this section regulate the extraction or removal of gravel from the beds of rivers, except as provided in section 28.1.6.

Chapter 29 details the information required with any land use consent application for gravel removal.

Advice Note: The Resource Management (National Environmental Standard for Freshwater) Regulations 2020 may apply to some activities, including farming activities and activities in or near wetlands and rivers. The National Environmental Standard may alter the activity status of an activity and impose additional standards, information requirements, matters for assessment and criteria. Please ensure you have met any requirements in the regulations in addition to those in this plan. NES-FW (ca)
12/20

28.5.2 Gravel Extraction

28.5.2.1 Permitted Activities (Gravel Extraction)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from the bed of a river is a permitted activity, if it complies with the following conditions:

- (a) The amount of material taken is no more than 5 cubic metres per year, including removal for cultural harvest.
- (b) The river bed from which the material is removed is more than 10 metres wide, measured between the top of the banks.
- (c) The material is removed more than 600 millimetres above the water level in the bed of the river.
- (d) The removal does not result in any hole more than 600 millimetres deep in the bed of the river.
- (e) There is no material removed within 20 metres of any structure, including stopbanks and other defences against water.
- (f) There is no damage caused to the banks as a result of the removal.
- (g) There is no disturbance from October to February inclusive by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-fronted tern nesting site.
- (h) There is no disturbance from October to December inclusive in any year by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-billed gull nesting site.
- (i) Disturbance of any river bed, including the banks, from 15 February to 31 May in any year, within 1 kilometre of the river mouth, does not cause damage to inanga spawning habitat (the principal whitebait species).
- (j) The material removed is not for sale to or use by a third party.
- (k) There is no disturbance of the wetted part of the bed.

28.5.2.2 Controlled Activities (Gravel Extraction and Relocation)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from and subsequent deposition in the bed of a river that does not comply with the conditions of rule 28.5.2.1 is a controlled activity, if it complies with the following conditions:

- (a) The extracted material is replaced within the same river bed.
- (b) There is no disturbance from 1 May to 30 September in any year (trout spawning season) of any part of the bed covered by water in any rivers listed in Schedule 30A as having trout spawning values.
- (c) Disturbance in the river bed, including the banks, from 15 February to 31 May in any year, within 1 kilometre of the river mouth, does not cause damage to inanga spawning habitat (the principal whitebait species)
- (d) There is no disturbance from October to February inclusive by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-fronted tern nesting site.
- (e) There is no disturbance from October to December inclusive in any one year by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-billed gull nesting site.
- (f) The maximum length and frequency of river bed disturbance is not more than 600 metres of river length in any one year for any river.
- (g) The disturbance is by or under the supervision of a person carrying out functions under the Soil Conservation and Rivers Control Act for the express purpose of:
 - (i) protecting the channel from erosion or instability;
 - (ii) maintaining efficient movement of floodwaters and sediment down the channel; or
 - (iii) preventing or mitigating the adverse effects of flooding.

A resource consent is required and may include conditions on the following matters over which Council has restricted its control:

- (1) The location, rate, method and timing of the extraction and deposition of material.
- (2) The length of river bed disturbed.
- (3) The extent to which the location and the amount of the material being extracted is identified in Council's current Annual Operation and Maintenance Programme for river works.
- (4) Measures to provide for and maintain the passage of fish.
- (5) Effects on aquatic and riparian ecosystems, including habitats of birds nesting on the river bed and riparian vegetation.
- (6) Effects on river bed and bank stability upstream and downstream of the activity and measures to remedy any instability or erosion.
- (7) Effects on other river users, and landowners potentially affected by the activity including effects of flood flows and effects on structures.
- (8) Effects of noise on neighbouring properties.
- (9) Effects on the natural character and amenity of the river or lakes and effects on public access to the river.

- (10) Effects of removing vegetation or other debris.
- (11) Measures to provide for safe navigation.
- (12) The effects of machinery working within wetted parts of the river.
- (13) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (14) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (15) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

28.5.2.3 Controlled Activities (Gravel Extraction - River Management)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from the bed of a river that does not comply with the conditions of rule 28.5.2.1 is a controlled activity, if it complies with the following conditions:

- (a) The material is removed from a river or river reach with an extraction limit specified in Figure 28.5A.
- (b) The amount of material removed on its own or in combination with other authorised removals does not exceed the relevant extraction limit specified in Figure 28.5A.
- (c) The material is removed by a person carrying out functions under the Soil Conservation and Rivers Control Act for the express purpose of:
 - (i) protecting the channel from erosion or instability; or
 - (ii) maintaining efficient movement of floodwaters and sediment down the channel; or
 - (iii) preventing or mitigating the adverse effects of flooding.
- (d) Machinery is not operated in any flowing water.
- (e) The removal of material does not take place closer than 2 metres from flowing water.
- (f) There is no material removed from areas less than 0.5 metres above the water level of the adjacent river.
- (g) There is no material removed within 20 metres of any structure in, on, under or over the bed of the river.
- (h) All equipment and surplus materials are removed from the bed on the completion of the activity.
- (i) There is no disturbance from October to February inclusive by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-fronted tern nesting site.
- (j) There is no disturbance from October to December inclusive in any year by the use of motorised machinery in any river-bed location listed in Schedule 30A as having a black-billed gull nesting site.
- (k) There is no disturbance from 1 May to 30 September in any year by the use of motorised machinery on any part of the bed covered by water in rivers listed in Schedule 30A as trout spawning rivers.

Figure 28.5A: Extraction Limits for Gravel, Sand and Other Materials

RIVER OR RIVER REACH	EXTRACTION LIMIT (cubic metres per year expressed as a long term running mean over 10 years)
Waimea Catchment	
Waimea - Wairoa River and tributaries	0
Wai-iti River and tributaries	0
Motueka Rivers	
Lower Motueka (mouth to Alexander Bluff Bridge)	1500
Middle Motueka (Alexander Bluff Bridge to Wangapeka confluence)	1000
Upper Motueka (Wangapeka confluence to Gorge)	3000
Motupiko River	2000
Wangapeka River	0
Riuwaka River	0
Moutere River and its tributaries	0
Golden Bay Rivers	
Takaka (mouth to Gorge)	1000
Waingaro	0
Anatoki	1000
Aorere	1000
Patarau, Anatori, Turamawiwi rivers	1000 collectively
Buller Rivers	
Buller (O'Sullivan's to Lake Rotoiti)	2000
Matakitaki (above 1929 earthquake slip)	1000
Note:	
(1) Unless specified otherwise, the extraction limit applies only to the mainstem of the river listed.	

A resource consent is required and may include conditions on the following matters over which Council has reserved control:

- (1) The location, rate, method and timing of the extraction or deposition of material.
- (2) The extent to which the location and the amount of the material being extracted is identified on the current Annual Operation and Maintenance Programme for river works.
- (3) Effects on aquatic and riparian ecosystems, including habitats of birds nesting on the river bed and trout or indigenous fish spawning reaches.
- (4) Effects on river bed and bank stability upstream and downstream of the extraction and measures to remedy any instability or erosion.
- (5) Effects on other water users, downstream landowners and landowners affected by the extraction, including effects of flood flows.
- (6) Adverse effects on aquatic habitat and on other uses and values of the river including those listed in Schedule 30A.
- (7) Effects of noise on neighbouring properties.
- (8) Any potential effects on existing river users or existing structures.
- (9) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (10) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews and the purposes of reviews (Section 128 of the Act).

- (11) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

Notes

- The purposes specified in condition (c) are further described in the river works programme prepared under the Soil Conservation and Rivers Control Act 1941. This is specified in the Council's Rivers Activity Management Plan and Annual Operation and Maintenance Programme.
- The Council's Annual Operation and Maintenance Programme for river works identifies the location and the maximum amount of gravel needed to be taken for river management purposes at that site. The preparation of the Annual Operation and Maintenance Programme is integral to both river management and the management of gravel extraction demand. For most rivers, the Annual Operation and Maintenance Programme will identify all the available gravel in accordance with Figure 28.5A. Where the Annual Operation and Maintenance Programme requires less gravel extraction than the extraction limit, a third party may apply to extract the gravel.

28.5.2.4 Restricted Discretionary Activities (Gravel Extraction)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from the bed of a river that does not comply with the conditions of rule 28.5.2.2 or rule 28.5.2.3 is a restricted discretionary activity, if it complies with the following conditions:

- (a) Where the material is to be removed from a river or river reach with an extraction limit specified in Figure 28.5B, the amount of material removed on its own or in combination with other authorised extractions does not exceed the relevant extraction limit specified in Figure 28.5B.

Figure 28.5B: Extraction Limits for Gravel, Sand and Other Materials

RIVER OR RIVER REACH	EXTRACTION LIMIT (cubic metres per year expressed as a long term running mean over 10 years)
Waimea Catchment	
Waimea - Wairoa River and tributaries	0
Wai-iti River and tributaries	0
Motueka Rivers	
Lower Motueka (mouth to Alexander Bluff Bridge)	0
Middle Motueka (Alexander Bluff Bridge to Wangapeka confluence)	0
Upper Motueka (Wangapeka confluence to Gorge)	0
Motupiko River	2000
Wangapeka River	0
Riuwaka River	0
Moutere River and its tributaries	0
Golden Bay Rivers	
Takaka (mouth to Gorge)	0
Waingaro	0
Anatoki	0
Aorere	0
Patarau, Anatori, Turamawiwi or Anaweka rivers	0
Buller Rivers	
Buller (O'Sullivan's to Lake Rotoiti)	2000
Matakitaki (above 1929 earthquake slip)	1000
Note:	
(1) Unless specified otherwise, the extraction limit applies only to the mainstem of the river listed.	

A resource consent is required and conditions may be imposed on the following matters over which Council has reserved discretion:

- (1) The extent to which the river contributes material to a river or reach specified in Figure 28.5A, and the potential adverse effects the extraction of gravel and associated bed disturbance has on bed levels and bed and bank stability in both rivers and the significance of this contribution.
- (2) The extent to which the location and the amount of the material being extracted is identified on the current Annual Operation and Maintenance Programme for river works.
- (3) The location, rate, method and timing of the extraction or deposition of material.
- (4) The proportion of the extracted material in relation to the calculated amounts of gravel entering and exiting the river system, and any significant exceedance, from the calculated inputs, of the amount of gravel extracted.
- (5) Effects on river bed and bank stability upstream and downstream of the extraction.
- (6) Opportunities for enhancing bed stability, meander pattern, channel morphology, bed substrate or other aspect of habitat by realignment or relocation of gravel resources within the banks of the river.
- (7) Effects on aquatic and riparian ecosystems, including habitats of birds nesting on the river bed, including those values listed in Schedule 30A, and braided river characteristics.
- (8) Effects on other water users, downstream landowners and landowners affected by the extraction or deposition, including effects of flood flows.
- (9) Effects of noise on neighbouring properties.
- (10) Monitoring compliance with conditions, and effects of the activity on the environment and the provision of information to Council.
- (11) The duration of the consent as provided for in Schedule 28A (Section 123 of the Act), timing of reviews, and the purposes of reviews (Section 128 of the Act).
- (12) Financial contributions, bonds and covenants in respect of the performance of conditions, and administration charges (Section 108 of the Act).

28.5.2.5 Discretionary Activity (Gravel Extraction)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from the bed of a river that does not comply with the conditions of rule 28.5.2.4 is a discretionary activity, if it complies with the following conditions:

- (a) The material is removed by a person carrying out functions under the Soil Conservation and Rivers Control Act for the express purpose of:
 - (i) protecting the channel from erosion or instability; or
 - (ii) maintaining efficient movement of floodwaters and sediment down the channel; or
 - (iii) preventing or mitigating the adverse effects of flooding.

A resource consent is required and conditions may be imposed.

Note: The purposes specified in condition (a) are further described in the river works programme prepared under the Soil Conservation and Rivers Control Act 1941. This is specified in the Council's Rivers Activity Management Plan and Annual Operation and Maintenance Programme.

28.5.2.6 Non-complying Activities (Gravel Extraction)

The disturbance of the bed of a river for the extraction or removal of sand, gravel or other material from the bed of a river that does not comply with the conditions of rule 28.5.2.5 is a non-complying activity.

A resource consent is required. Consent may be refused or conditions may be imposed

28.5.20 Principal Reasons for Rules

The rules regulating gravel extraction provide flexibility for day-to-day management of rivers within a resource management framework to provide for consistency and co-ordination between Council's resource management as well as its river management roles.

Most small gravel extractions do not cause adverse effects, either individually or cumulatively. However, as the amount taken increases, the chance of adverse effects being caused either at the point of extraction or cumulatively over a reach or river also increases.

It is probable that more than minor amounts of gravel have been extracted without authority, but there is very little data on the frequency and actual amounts taken.

The conditions for permitted extraction give some guidance as to the nature and scale of permitted extraction and provide much better guidance for both Council and the public by establishing a threshold. If gravel was to be removed according to the suggested conditions, then adverse effects will be avoided.

The approach to regulating gravel extraction initially leaves gravel resource management discretion with the river works asset managers through the exercise of their resource consent required to carry out most aspects of the river works programme, but this discretion is within specified limits and for a specified river management purpose. Council will consult with landowners in assessing priority for river management works, including gravel management, to address localised bank stability and flooding effects. In cases where Council is required to access private land (including the riverbed) to carry out river management works, Council shall consult with and/or seek the owner's consent to access private land.

These rules also enable the value of the gravel that is necessarily extracted for river management purposes to be offset against the costs of the river protection work being carried out.

The gravel extraction limits provide information about sustainable rates of extraction for river gravels in many rivers. Extractable amounts are, however, limited because of the risks presented by degrading river beds on bed and bank stability. In order to facilitate river management, the rules also enable relocation of gravel within river beds to address risks of overland flow of flood waters because of gravel build-up on beaches. The adverse effects of gravel relocation on aquatic habitats can be significant and the rules include conditions to limit scale and frequency of these disturbances.

The works identified in the Annual Operating Management Programme for River Management will be carried out by or under the supervision of the Council.

SCHEDULES

Schedule 28A: Duration of Resource Consents

Refer to rules 28.1.5.2, 28.1.8.1, 28.2.2.3, 28.2.2.4, 28.3.2.2, 28.3.3.2, 28.5.2.2, 28.5.2.3, 28.5.2.4.

The period for which a resource consent to carry out an activity regulated by Part IV is granted is the period (not exceeding 35 years from the date of granting) specified in the consent, and if no such period is specified, is five years from the date of commencement of the consent under the Act.

The list of matters in this Schedule provides guidance in determining the appropriate duration of any resource consent to be granted. It does not restrict the consent authority's discretion in each case to grant a resource consent for a duration based on the particulars of the individual consent applications. If after consideration of the matters, no significant concerns are identified then Council may apply a 35-year duration. However, if significant concerns are identified, then Council may restrict the duration of the resource consent to a shorter duration.

The matters will also be relevant in determining any review conditions that may be imposed with the consent.

When considering the duration of any resource consent to be granted, the Council will grant the resource consent for as long as is consistent with sustainable resource management, having particular regard to the following matters:

1. The nature and sensitivity of the affected environment, including:
 - (a) the risk of unforeseen adverse effects arising from the consented activity;
 - (b) the level of knowledge about the affected environment.
2. The nature of the activity, including:
 - (a) the degree to which the methods used to control, avoid, remedy, or mitigate the adverse effects of the consented activity are of a temporary nature or inconsistent with the requirements of the Act and the time that is practicable for the consent holder to implement other options;
 - (b) the level of compliance monitoring, environmental impact monitoring, reporting and action required by the conditions on the resource consent;
 - (c) the significance of the activity relative to the existing situation and the capacity of the affected environment;
 - (d) the duration of consent sought by the applicant;
 - (e) the rate of change in technology that may mitigate adverse effects resulting from the activity;
 - (f) the permanence and economic life of the activity;
 - (g) the costs and benefits of the activity to the community;
 - (h) the consent holder's capital investment in a pre-existing activity;
 - (i) any documented and proven history of non-compliance with the requirements of the Act, and the response to that non-compliance by the consent authority and those undertaking the activity;
 - (j) guidance from resource management case law;
 - (k) any resource management work committed to by the consent holder which will have positive or beneficial environmental effects and is dependent on consent duration.
3. For disturbances of river beds to extract sand, material or other gravel, the duration must be consistent with any such specification in the Rivers Activity Management Plan and Annual Operation and Maintenance Programme for river works where relevant and where not relevant:
 - (a) for activities subject to rule 28.5.2.2, the duration must not exceed 10 years;
 - (b) for activities subject to rule 28.5.2.4, the duration must not exceed 15 years;
 - (c) for activities subject to rule 28.5.2.5, the duration must not exceed 15 years.
4. Any other relevant matters.