

Section 26 - Lakes and Water bodies

26.1 Introduction

26.1.1 Section 6(a) of the Act requires as a Matter of National Importance:

“(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:”

26.1.2 District Plans have to recognise and provide for matters of national importance. This section of the Plan seeks to achieve this by managing the activities on the lakes and water bodies, and the activities in proximity to the lakes and water bodies, of the District.

26.1.3 Land in the District was originally settled in areas adjacent to, or within close proximity to lakes and water bodies. The lakes and water bodies themselves and areas adjacent to them are of particular significance to tāngata whenua. This settlement pattern has continued over time, resulting in many dwellings and a variety of commercial, farming and recreational uses occurring. The proximity of these buildings and activities to the lakes and water bodies can adversely affect natural character and water quality and requires careful management.

26.1.4 The lakes and water bodies of the District are also areas that are generally accessible and available to the public. This is particularly the case for Lake Karāpiro, Lake Ngāroto, and the Waipā and Waikato Rivers. Additionally, the rivers of the District (particularly the Waipā and Waikato Rivers) are of importance to tāngata whenua for customary activities and were the focus of historical settlement in the District. The Waikato River is also used for hydro electric generation.

26.1.5 This section of the Plan seeks to manage the balance between the natural qualities of these water bodies, their spiritual significance to tāngata whenua, and the recreational and intrinsic values that they provide. In addition, this section of the Plan also controls the location of buildings, effluent disposal and treatment fields, earthworks and vegetation removal in proximity to the lakes and water bodies. The requirements of other sections of the Plan will also contribute to the health and quality of the water, in particular Section 24 - Indigenous Biodiversity, and Section 25 - Landscapes and Viewshafts which controls matters relating to visual impacts on the Waikato River.

26.1.6 Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River arises from the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and the Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act). These Acts establish the Vision and Strategy as the primary direction-setting document for the Waikato River and activities within its catchments affecting the Waikato River. This includes the lower Waipā River to its confluence with the Pūniu River.

26.1.7 The overarching purposes of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and the Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 are slightly different; however, the key focus of both is on restoring and protecting the health and well-being of the Waikato River. They have in common the following purposes: recognising the significance of the Waikato River to the respective River Iwi; recognising the Vision and Strategy; establishing and granting functions to the Waikato River Authority; establishing the Waikato River Clean-up Trust; and providing co-management arrangements for the Waikato River. Similarly they both identify that the Waikato River and its contribution

to New Zealand's cultural, social, environmental, and economic well-being is a matter of national importance.

26.2 Resource Management Issues

- 26.2.1 Buildings, effluent disposal and treatment fields, excavations, and indigenous vegetation removal adjacent to lakes and water bodies can have adverse effects on the natural character of the margins of the lake or water bodies, and water quality.
- 26.2.2 Lakes and water bodies are important wildlife habitats, key taonga to Waikato iwi and attractive visual features. Activities on the surface of water have the potential to adversely affect ecological, cultural and amenity values by; disturbing habitats, undermining bank stability, introducing noxious flora and fauna, and polluting surface waters.
- 26.2.3 Lakes and water bodies attract many user groups, undertaking commercial, recreational sporting, and commercial activities such as hydro-electric power generation. This wide range of activities needs to be managed, including the effects of activities such as noise and effects on water ecology.
- 26.2.4 Structures, except navigational aides and surface safety structures, on the surface of water have the potential to cause conflicts for space with other River users, affect the natural character of the water body, inhibit water flow, and have the potential to become navigation hazards.
- 26.2.5 Lakes and water bodies provide ecological connections and are important to the overall ecosystem health of the District. Activities adjacent to water bodies can both adversely affect or potentially enhance existing or potential ecological connections, including the forest lake and stream corridors identified on the Planning Map 49.

26.3 Objectives and Policies

Please also refer to the objectives and policies of Parts C, Part D and Part E, as relevant.

Please note that these objectives and policies do not apply to the Karāpiro and Arapuni Hydro Power Zone.

Objective - Protecting the natural character of lakes and water bodies and their margins, from inappropriate use, and development

- 26.3.1 Ensure that activities that occur on and adjacent to lakes and water bodies are managed to avoid, and where possible enhance, natural character and water quality.

Policy - Ensuring activities are setback from lakes and water bodies

- 26.3.1.1 To ensure that adverse effects on public access to lakes and water bodies, and on the natural character and quality of the water in lakes and water bodies are avoided, through establishing setbacks for a range of activities that may cause adverse effects, except within the Karāpiro and Arapuni Hydro Power Zone.

Policy - Managing effects

- 26.3.1.2 Buildings, paved areas and wastewater treatment systems shall be located to avoid, remedy or mitigate adverse effects on remnant areas of indigenous flora and fauna, including, significant natural areas, peat lakes, and wetlands.

Policy - Customary activities

- 26.3.1.3 To enable customary activities to be undertaken within and adjacent to the lakes and water bodies of the District.

Policy - Managing ecological effects

- 26.3.1.4 To ensure that users undertaking activities on the surface of lakes and water bodies and within their margins do not adversely affect water quality, or significant natural areas, other indigenous vegetation, or habitats of significant indigenous fauna.

Policy - Recreational activities

- 26.3.1.5 To enable recreation activities adjoining lakes and water bodies, and ensure that they do not have adverse effects on the health and well-being of lakes and water bodies.

Policy - Enhancing natural character

- 26.3.1.6 Promote the restoration and enhancement of the natural character of lakes, water bodies and their margins.

Policy - Good practice: lakes, water bodies and wetlands

- 26.3.1.7 To promote good land use practice adjoining lakes, water bodies and wetlands; including promoting the value of wetlands for both their biodiversity importance and the ecological services they provide (e.g. controlling sediment and nutrients runoff from intensively managed land).

Policy - Good practice: peat lakes

- 26.3.1.8 Promote good land use practice adjoining peat lakes including promoting less intensive land uses, maintaining and enhancing peat lake surrounds, and promoting the re-routing of drains into peat lakes.

Objective - Managing conflict on the surface of the water

- 26.3.2 To avoid, remedy, or mitigate conflict between users of the surface of the water.

Policy - Public safety

- 26.3.2.1 All activities on lakes and water bodies must maintain and enhance public safety.

Policy - Managing adverse noise effects

- 26.3.2.2 Minimise adverse noise effects on adjoining land uses from motorised activities undertaken on the surface of the water and the margins of lakes and rivers.

Advice Note: Territorial Local Authorities are responsible for controlling any actual or potential effects of activities in relation to the surface of water in rivers and lakes. The Regional Council has responsibility for water permits (e.g. to take, use, dam or divert water), discharge permits (to discharge contaminants to land, air, water, disturbance of beds of rivers and lakes), and navigational safety.

Policy - Effects on lake levels

- 26.3.2.3 All activities on lakes and water bodies and their margins must recognise and provide for fluctuating water levels as determined by Waikato Regional Council as a result of hydro electricity generation and operating easements on Lake Karāpiro and Lake Arapuni.

26.4 Rules

The rules that apply are contained in:

- (a) *The activity status tables and the performance standards in this section; and*
 (b) *The activity status tables and the performance standards in Parts D Zone Provisions, Part E District wide Provisions, and Part F District Wide Natural and Cultural Heritage provisions of the Plan.*

Please note that the following rules do not apply to the Karāpiro and Arapuni Hydro Power Zone. Refer to Section 12 of the Plan.

26.4.1 Activity Status Tables

26.4.1.1	Permitted activities
	All activities shall comply with the performance standards of 26.4.2
(a)	Private recreational activities on the surface of the water, including canoeing, rafting, boating, kayaking and jet boating.
(b)	Navigational aides, and surface safety structures on the surface of the water.
(c)	Customary activities.
(d)	Buildings, earthworks, and indigenous vegetation removal associated with the Te Awa cycleway.
(e)	Within 23m of the edge of any lake or water body (excluding a natural wetland) as measured at its maximum annual water level, removal of vegetation: <ul style="list-style-type: none"> (i) On or within 2m of existing tracks, fences or water intake structures for maintenance purposes; or (ii) To undertake tillage of land associated with the growing of crops over 5m from a lake or water body; or (iii) Undertaken in accordance with the terms of a QEII National Trust covenant, or other relevant covenant, consent notice or encumbrance; or (iv) Carried out, by, or under the direction/control of the Department of Conservation or Waipa District Council on Crown Reserve; or (v) To control and remove invasive weeds; or (vi) Undertaken pursuant to conservation activities.
(f)	Intake or discharge structures less than 10m ² GFA within 23m of the edge of any lake or water body (excluding a natural wetland) as measured at its maximum annual water level. <i>Note: Refer to Section 25 for rules regarding structures in Landscapes and Viewshafts</i>
26.4.1.2	Controlled activities
(a)	There are no controlled activities.
26.4.1.3	Restricted discretionary activities
(a)	Activities which fail to comply with Rule 26.4.2.1.
26.4.1.4	Discretionary activities
(a)	Motorised and non-motorised commercial activities on the surface of the water.

26.4.1.5	Non-complying activities
(a)	Any building within 23m of the edge of the Waipā, Waikato, Pūniu, Kaniwhaniwha, Mangapiko, Mangaohoi, Karāpiro and Owairaka rivers/streams as measured at their maximum annual water level, as shown on the Planning Maps, except within the Karāpiro and Arapuni Hydro Power Zone.

26.4.1.6	Prohibited activities
	The following activities are prohibited and no resource consent will be approved
(a)	There are no prohibited activities.

Advice Notes:

1. Additional rules relating to activities adjacent to rivers including building and vegetation removal are located within Section 24 - Indigenous Biodiversity, Section 25 - Landscapes and Viewshaft and Section 12 - Karāpiro and Arapuni Hydro Power Zone.
2. Territorial Local Authorities are responsible for controlling any actual or potential effects of activities in relation to the surface of water in rivers and lakes. The Regional Council have responsibility for water permits (e.g. to take, use, dam or divert water), discharge permits (to discharge contaminants to land, air, water, disturbance of beds of rivers and lakes), and navigational safety.
3. Refer to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for specific rules relating to natural wetlands.

26.4.2 Performance Standards

The following rules apply to activities listed as permitted, controlled, or restricted discretionary.

Where rules are not complied with resource consent will be required in accordance with the rules in the activity status table or as identified in the performance standards, and will be assessed against the relevant objectives and policies. In the case of controlled and restricted discretionary activities, the assessment will be restricted to the matters over which control or discretion has been reserved, in accordance with the relevant assessment criteria contained in Section 21. For discretionary activities Council shall have regard to the assessment criteria in Section 21. The criteria in Section 21 are only a guide to the matters that Council will consider and shall not restrict Council's discretionary powers.

Rules - 23m setback from lakes and water bodies

26.4.2.1 No building, wastewater treatment system, earthworks or vegetation clearance shall be erected or undertaken within 23m of the edge of any lake or water body (excluding a natural wetland) as measured at its maximum annual water level, provided that this rule shall not apply to:

- (a) The Karāpiro and Arapuni Hydro Power Zone.
- (b) Maimai not exceeding 6m² in floor area; or
- (c) Earthworks and vegetation removal associated with conservation planting of river banks and lakes; or
- (d) St Kilda Residential Structure Plan Area; or
- (e) Clearance of vegetation undertaken in accordance with Rule 26.4.1.1(e) or (f); or
- (f) Harvesting of forestry over 5m from a water body.

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Natural character and amenity of the water body or lake; and
- Public access; and
- Recreational opportunities; and
- Cultural values; and
- Riparian values; and

- Ecological values; and
- Impact on natural hazards; and
- Natural and cultural features; and
- Impact on other land uses.

These matters will be considered in accordance with the assessment criteria in Section 21.

Advice Notes:

1. Earthworks complying with permitted activity rules or subject to resource consent requirements under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011, are exempt from additional resource consent requirements.
2. Regional rules may also apply to activities near water bodies and lakes. Refer to the Waikato Regional Plan.
3. Refer to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for specific rules relating to feedlots and other stockholding areas, and activities within close proximity of natural wetlands.

26.4.2.2 No building shall be erected within 23m of the edge of the Waipā, Waikato, Pūniu, Kaniwhaniwha, Mangapiko, Mangaohoi, Karāpiro and Owairaka rivers/streams as measured at their maximum annual water level, as shown on the Planning Maps, except within the Karāpiro and Arapuni Hydro Power Zone.

Activities that fail to comply with this rule will require a resource consent for a non-complying activity.

26.5 Assessment Criteria

26.5.1 Controlled activities and Restricted Discretionary activities

For controlled and restricted discretionary activities the assessment will be restricted to the matters over which control or discretion has been reserved, in accordance with the relevant assessment criteria contained in Section 21. Resource consent conditions can only be imposed over the matters which control or discretion has been reserved. The relevant assessment criteria are contained in Section 21.

26.5.2 Discretionary Activities

For discretionary activities Council shall have regard to the assessment criteria in Section 21. The criteria in Section 21 are only a guide to the matters that Council will consider and shall not restrict Council's discretionary powers.