

Region-wide proposed new rules and regulations

Bed of Lakes and Rivers



Recent content updates:

26 September 2023:

- Added restricted discretionary criteria for use of existing structures that do not meet the permitted activity conditions
- Clarified how the Stock Exclusion Regulations 2020 apply to stock crossings.

The Beds of Lakes and Rivers chapter manages all works in, on, over or under the beds of lakes and rivers, including selected activities in the riparian margin (the strip of land that runs alongside a waterway). The activities captured include:

- Use, maintenance, alteration or placement of flood protection and drainage infrastructure works
- Use, maintenance, alteration, placement, and removal of structures in the bed
- Bank reinstatement and reshaping of banks
- Construction and maintenance of sediment traps
- Reclamation, realignment, widening or deepening
- Planting and removal of vegetation
- Extraction of gravel
- Other disturbances

The nature of works in the bed of lakes and rivers varies across the Otago region, as do the environments where those activities occur. The beds and margins of lakes and rivers in the region provide habitat for flora, fauna and valued mahika kai (food and resource gathering) and are an integral part of the natural character of the region.

This chapter does not manage damming and diversion in the bed, which is captured by the Damming and Diversion chapter.

Overview and key changes

The table below provides a high-level comparison of the operative Water Plan provisions with those included in the draft Beds of Lakes and Rivers chapter and highlights the key changes from the operative Water Plan.

Beds of Lakes and Rivers chapter of draft LWRP	Existing plan
Permitted activity framework	
<p>Key changes:</p> <p>Permitted activity rules capture similar activities, but have been refined to capture all associated disturbance, discharge, deposition, and land use requirements so that users do not need to consult multiple parts of the plan.</p> <p>Permitted activity criteria are similar to the Water Plan but have been simplified and aligned with other standard conditions in the LWRP. For example, conditions seek to ensure that:</p> <ul style="list-style-type: none"> • Activities do not cause erosion of the bed or banks • Discharges comply with visual clarity standards after reasonable mixing • No lawful water takes are adversely affected • Sites are left in a tidy condition • The roosting or nesting of indigenous birds is not disturbed • Structures are not located within drinking water protection zones, habitats of threatened species, or outstanding water bodies (for some structures) and don't interfere with existing navigation or legal public access • There is no fuel storage or placement of hazardous substances on the bed • If an archaeological site is unearthed, the accidental discovery protocol is applied • There is no spread of pests. <p>Use of existing structures are permitted if:</p> <ul style="list-style-type: none"> • They are lawfully established • They are actively used • If a change in use of the structure occurs, the effects of the new use are the same or similar in character, intensity, and scale as the preceding use • They are maintained in a state of good repair • They are not identified in an action plan as requiring remediation to provide for fish passage • Any build-up of debris against the structure which may adversely affect flood risk, drainage capacity or bed or bank stability is removed as soon as practicable. 	<p>The permitted activity rules are extensive, and provide a pathway for various types of activities in the beds of lakes and rivers, including:</p> <ul style="list-style-type: none"> • Use of structures • Placement of small structures (e.g., lines, pipes, cables, fences), bridges and crossings • Repair, maintenance, alteration, replacement, or reconstruction of structures • Removal of structures • Disturbance, discharge, and deposition associated with structures • Bank reinstatement • Vegetation planting and removal • Sediment traps • Gravel extraction • Suction dredge mining • Stock crossing.

Permitted activity framework

If the activity does not comply with the above permitted activity conditions, a restricted discretionary activity will be required. ORC's discretion will be restricted to the actual and potential environmental effects of not meeting the relevant conditions of the rule, the lapsing period and duration of the resource consent, review of the conditions of the resource consent, the need for a bond, and the collection, recording, monitoring, and provision of information about the exercise of the resource consent.

Where possible, activities that are beneficial for water body health (for example sediment traps) will continue to be permitted if conditions are met.

All suction dredge mining will require consent.

No consent required for some bank reshaping (i.e., to repair flood damage). The new provision for bank reshaping makes it simpler to understand and provides greater clarity for how the activity should be completed.

Stock crossing will be managed under the Stock Exclusion Regulations 2020. The person responsible must ensure that the stock are supervised and actively driven across the lake or wide river. This includes:

- not allowing stock closer than three meters from the edge of the bed of the lake or wide river unless the stock need to access the area to enter or exit a dedicated bridge or culvert.
- ensuring stock do not cross the same lake or wide river more than twice in any month.

General consenting requirements

Key changes:

Activities that do not comply with permitted activity rules are generally classified as discretionary.

Stronger policy guidance to inform decision-making on consent applications. This includes direction on:

- Recognising the value of structures and works in the bed where they provide for social and cultural well-being
- Providing for the disturbance of the bed of a lake or river in particular situations (e.g., where an activity maintains or enhances water quality, avoids works in water and discharges of sediment where practicable, avoids adverse effects on the health and well-being of water bodies and indigenous ecosystems, and avoids adverse effects on the integrity of nationally and regionally significant infrastructure and other lawfully established structures)
- Providing for the use, maintenance, alteration, replacement, and placement of structures in, on, under or over the bed of a lake or river in particular situations
- Matters to consider for resource consent applications for works in the bed of a lake or river or in a riparian margin
- Providing for flood protection and drainage infrastructure works where they maintain the integrity and function of existing flood protection and drainage infrastructure, maintain, or improve the flow carrying capacity of the river and do not induce erosion, unless this is intended for flood management purposes
- Matters to consider for resource consent applications for flood protection and drainage infrastructure works
- Avoiding the replacement or placement of hard protection structures in the bed of a lake or river unless they are for the purpose of maintaining or reducing the level of risk to people or communities, there are no other reasonable alternatives, and the placement would not result in an increase in risk to people and communities

Most activities that do not comply with the permitted activity rules are classified as restricted discretionary. The matters of discretion are broad, and supporting policy direction is uncertain.

General consenting requirements

- Encouraging works in the bed that provide for the restoration of lake or river extent and value
- Providing for the removal or planting of vegetation in particular situations
- Matters related to the maintenance of drains and modified water bodies
- Encouraging engagement with ORC prior to lodgment of any resource consent application to extract gravel and setting out the situations where extraction is provided for
- Improving the long-term management of Otago's gravel resources
- Managing recovery from natural hazards
- Promoting activities that reduce the risk of exposure to natural hazards.

Flood protection and drainage infrastructure works	
<p>Key changes:</p> <p>Policy and rule pathways included that are specifically for flood protection and drainage infrastructure works undertaken by or on behalf of Council.</p> <p>Use and some maintenance of flood protection and drainage infrastructure works undertaken by persons other than Council is permitted (subject to similar conditions as outlined above for activities in beds).</p> <p>Any alteration, placement or replacement of flood protection and drainage infrastructure by or on behalf of Council requires consent.</p>	<p>No specific policy or rule direction for flood protection and drainage infrastructure works undertaken by or on behalf of ORC, so captured under general rule framework. Many works require consent.</p>
Gravel extraction	
<p>Key changes:</p> <p>Reduced volume for permitted gravel extractions to 5 cubic metres in all rivers and lakes.</p> <p>Discretionary consent required for all other extractions.</p> <p>Clear policy direction on managing gravel extraction requiring:</p> <ul style="list-style-type: none"> • Extraction is not in areas where there is a deficit of gravel or where the activity may cause a deficit, and within a habitat of a threatened species • The rate of extraction does not exceed the rate of gravel recharge, except where stored gravel is available for extraction • Extraction does not cause or exacerbate erosion or instability and maintains or improves flood carrying capacity • There is no processing of gravel in the bed • The volume, extent and duration of the extraction is sustainable taking into account several factors 	<p>The permitted activity rule is very permissive and enables substantial gravel extraction for all rivers up to a volume of 20 cubic metres with no evidential basis for the volumes allowed.</p> <p>Limited policy direction to inform decision-making on consent applications for gravel extraction.</p>

Gravel extraction

- Either the extraction is for the purpose of protecting or maintaining nationally or regionally significant infrastructure and local transport infrastructure that is in the bed and that there are no other reasonable alternatives to protect or maintain the nationally or regionally significant infrastructure or local transport infrastructure, or for flood hazard mitigation and it is undertaken by or on behalf of ORC exercising its powers under legislation in relation to flood control, or the application demonstrates the functional need and operational need for the extraction and that there are no other practical alternatives.

Policy signalling development of catchment specific guidance and a Code of Practice which will describe good management practices for gravel extraction. This direction will be implemented by way of a future change to the Land and Water Regional Plan.