

# Water Conservation Order Review

## Outstanding Values: Key Features

For: Community Environment Fund - Outstanding Freshwater Body Project

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*“The test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a national basis”<sup>1a</sup>*

<sup>1a</sup> *Rangitata South Irrigation Limited and others v New Zealand and Central South Island Fish and Game Council (EnvC Decision C 109/204)*. Cited in the Special Tribunal Report on an application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River, and others.

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## For: Community Environment Fund - Outstanding Freshwater Bodies Project

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## List of Attachments

Appendix 1: Outstanding water body identification screening framework (regional)

## Glossary of commonly used abbreviations and terms

A number of abbreviations and terms are frequently used. The following provides clarification of commonly used abbreviations for easy reference.

CEF OFWB Project	Community Environment Fund - Outstanding Freshwater Body Project
Decision makers	Includes a Committee, Tribunal, Environment Court, High Court, Special Tribunal, Planning Tribunal that has considered and reported on WCO proceedings
IUCN	International Union of Conservation of Nature
Kayaking	Kayaking (including canoeing)
NPSFM	National Policy Statement for Freshwater Management
OWB	Outstanding Water Body / Outstanding Water Bodies
PNAP	Protected Natural Areas Programme
RMA	Resource Management Act 1991
Ramsar	The Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat
WCO	Water Conservation Order

## Executive Summary

1. Since the late 1970s, successive governments have introduced and amended various types of legislation in an attempt to protect those lakes and rivers in New Zealand which have outstanding features. One of the most central statutory tools in New Zealand used to protect water bodies with outstanding features are Water Conservation Orders (WCOs), passed into legislation in 1981. These are often referred to as the national park equivalent for water bodies.
2. In 2011, the Government signalled additional protection for outstanding water bodies (OWB) through the National Policy Statement for Freshwater Management (NPSFM). The NPSFM provisions set out a new direction for the management of freshwater resources in New Zealand at a regional level, but did not set a mandatory or approved methodology for the assessment and identification of OWB.
3. Both WCO and NPSFM OWB provisions provide a high level, but slightly different type, of protection for this class of water body. In particular, WCOs look to identify and protect nationally outstanding values of freshwater bodies, with the NPSFM looking to identify the regionally outstanding values of freshwater bodies with the protection directed at those water bodies' significant values. The 2020 version of the NPSFM now specifically recognises water bodies with a WCO as OWBs.
4. Despite nearly 40 years of research, investigations and discussions, to this day there is no nationally accepted criteria that can be used to assess the specific values of freshwater bodies and determine whether they are outstanding in either a national or regional context. This has created uncertainty and debate around when the values of a water body are outstanding and should be protected under the NPSFM.
5. In 2014, Hawke's Bay Regional Council partnered with Auckland Council and the Ministry for the Environment in an attempt to develop criteria and a methodology to assist regional councils with the identification of OWB across New Zealand, pursuant to the NPSFM. That project is referred to as the Community Environment Fund - Outstanding Freshwater Body Project.
6. The Outstanding Freshwater Body Project comprised a number of different work streams to inform its development. One of the work streams was a review of the WCO reports and recommendations released by various courts and tribunals, to identify common themes, factors and characteristics of those water bodies with an outstanding status.
7. Due to resourcing limits back in 2014-15, this particular workstream was not finalised beyond preparation of a preliminary draft. Moving forward to 2020, the author was asked to finalise and update this earlier review work to include recent 2019 and 2020 WCO reports and recommendations from decision makers.
8. This report summarises the key values considered in WCO reports and recommendations, by value-type. It discusses the key factors and characteristics used by the various courts and tribunals when determining if a value is nationally outstanding for WCO purposes, and sets out the factors and characteristics that have emerged for each value set.
9. Notably, this report does not make any recommendations, but it does reach a number of conclusions given the author's findings following a review of past WCO reports and recommendations. Based on these findings, an OWB identification screening framework has been included in Appendix 1 for use in a regional context.
10. In the absence of national guidance on criteria for evaluating and identifying 'outstanding' water bodies, regional councils have discretion on the processes it may choose to identify their region's OWBs, and will need to consider their own regions' unique circumstances. To this end, the identification screening framework contained in Appendix 1 is just one of a number of options available to assist regional councils with the identification of OWB for NPSFM purposes.

## Scope of review

11. The scope of this report is set out below:
  - 11.1 The primary focus of this review is to identify key factor(s) used by the courts and tribunals to determine when a freshwater value is nationally outstanding for WCO purposes. Subsequent determinations around protection measures, the appropriateness of a WCO, or whether the water body is in its natural state do not form part of this report.
  - 11.2 The report's findings includes values(s) that courts or tribunals have found to be outstanding. These findings apply regardless of whether the decision maker made a WCO or not.
  - 11.3 The report's findings identify common themes, factors and characteristics of those water bodies with an outstanding status. These findings are limited to the discussions and information contained within those WCO reports and recommendations set out in Paragraph 12. No further information has been used to inform the conclusions contained within this report or the OWB identification screening framework set out in Appendix 1.
  - 11.4 The identification of the key features used to determine if a water body is nationally outstanding for a particular value set has been undertaken in the following two ways:
    - (a) those factors and characteristics specifically referred to by the court or tribunal in the WCO report and recommendation document when concluding the value is nationally outstanding; or
    - (b) those factors and characteristics referred to in summarised evidence within the WCO report and recommendation document, where the court or tribunal has made a generalised statement of findings such as “*after hearing the evidence we consider the value to be outstanding*”.
  - 11.5 Where multiple WCO reports and recommendations for one water body exist as a result of appeals, the discussions and information within all of these documents is deemed relevant, given earlier decisions frequently provide a more detailed explanation of the values sets. Notwithstanding, when findings in respect to a value set have been overturned in subsequent decisions, or in cases of conflict, information in the most recent WCO report and recommendation from the Tribunal or Court for the water body takes precedence.
  - 11.6 The report's findings are ring-fenced to the work undertaken as part of the Community Environment Fund Outstanding Freshwater Bodies Project, with the addition of two recent WCO recommendation reports (being in relation to two respective Special Tribunal proceedings on WCO applications for the Ngaruroro River and Te Waikoropū Springs).
  - 11.7 The report does not attempt to summarise or cover all aspects of all WCO reports and recommendations, or all value sets, released over the past 40 years. There are a number of value sets not included in this report.

## Documents reviewed

12. The following documents were reviewed during the development of this report:
  - a. *Report of the National Water and Soil Conservation Authority Committee. 1983. Motu River - National Water Conservation Order application.*
  - b. *Report and Recommendation of the Tribunal. 1984. In the Matter of the National Water Conservation Order 1993 (Motu River).*
  - c. *National Water and Soil Conservation Authority Committee Report. 1984. Ahuriri River - National Water Conservation Order Application.*
  - d. *Report and Recommendation of the Planning Tribunal. 1990. Inquiry into a Draft National Water Conservation Order (Ahuriri River).*
  - e. *Report of the National Water and Soil Conservation Authority Committee. 1984. Rakaia River - National Water Conservation Order Application.*
  - f. *Report and Recommendation of the Planning Tribunal. 1985. Inquiry into the Draft National Water Conservation Order (Rakaia River).*
  - g. *High Court Report. 1986. Inquiry into the Draft National Water Conservation Order (Rakaia River).*
  - h. *Court of Appeal Report. 1987. Inquiry into the Draft National Water Conservation Order (Rakaia River).*

- i. *Report and Recommendation of the National Authority Rangitikei Committee. 1986. Rangitikei River Water Conservation Order Application.*
- j. *Report and Recommendation of the Planning Tribunal. 1992. Inquiry into the Draft National Water Conservation Order (Rangitikei River).*
- k. *Report of the National Water and Soil Conservation Authority Committee. 1986. Maitai River - National Water Conservation Order Application.*
- l. *Report and Recommendation of the Planning Tribunal. 1990. Inquiry into the Draft National Water Conservation Order (Maitai River).*
- m. *Decision of the Tribunal. 1987. Grey River - National Water Conservation Order Application.*
- n. *Report of the National Water and Soil Conservation Authority Committee. 1987. Lake Wairarapa - National Water Conservation Order Application.*
- o. *Report of the National Water and Soil Conservation Authority Committee. 1988. Application for Water Conservation Order on Lake Ellesmere.*
- p. *The Hearing Committee's Recommendation. 2011. Application to Vary the National Water Conservation (Lake Ellesmere) Order 1990.*
- q. *Report of the National Water and Soil Conservation Authority Committee. 1988. Manganuioteao River - National Water Conservation Order Application.*
- r. *Decision of the Tribunal. 1989. Buller River - National Water Conservation Order Application.*
- s. *Report and Recommendation of the Planning Tribunal. 1996. Inquiry into the National Water Conservation Order for the Buller River.*
- t. *Decision of the Tribunal. 1990. Mohaka River - National Water Conservation Order Application.*
- u. *Report and Recommendation of the Planning Tribunal. 1992. In the matter of two objections under Section 20 of the Act against a Draft National Water Conservation Order - Mohaka River*
- v. *Decision of the Tribunal. 1991. Motueka River - National Water Conservation Order Application.*
- w. *Report of the Environment Court. 2003. Inquiry into the draft National Water Conservation (Motueka River).*
- x. *Report of the Special Tribunal. 1993. Water Conservation Order Application on the Kawarau River and Tributaries.*
- y. *Report and Recommendation of the Planning Tribunal. 1996. Inquiry into the Draft National Water Conservation (Kawarau River).*
- z. *Report of the Special Tribunal. 2010. Application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River.*
- aa. *Report of the Environment Court. 2013. Minority & Majority Reports to the Minister for the Environment. In the Matter of the Special Tribunal 2010 on an application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River.*
- bb. *Report by the Special Tribunal. 2002. Water Conservation Order Application - Rangitata River.*
- cc. *Interim and final reports of the Environment Court. 2004 & 2005. In the matter of an application for a water conservation order pursuant to section 201 of the Act - Rangitata River.*
- dd. *Report by a Special Tribunal. 2007. Application for a Water Conservation Order for the Oreti River.*
- ee. *Special Tribunal Recommendation Report. 2019. Application for Water Conservation Order - The Ngaruroro and Clive Rivers.*
- ff. *Special Tribunal Recommendation Report. 2020. Application for Water Conservation Order Te Waikoropupū Springs and associated water bodies.*

## **Purpose of Water Conservation Orders (Section 199 RMA)**

13. Water Conservation Orders recognise and sustain particular outstanding amenity or intrinsic values afforded by waters in either a natural or modified state. The purpose of WCOs is set out in section 199 of the RMA.
14. Once outstanding amenity or intrinsic values have been identified and recognised as needing protection, Section 199 of the RMA provides for their protection by either:
  - 14.1 "the preservation as far as possible in its natural state of any water body that is considered to be outstanding".

- 14.2 *"the protection of characteristics which any water body has or contributes to, and which are considered to be outstanding"*.
  - 14.3 *"the protection of characteristics which any water body has or contributes to, and which are considered to be of outstanding significance in accordance with tikanga Maori"*.
15. As discussed in Paragraph 11, the primary focus of this review is to identify the key features or characteristics considered by the various courts and tribunals when they have been determining if a value is nationally outstanding. The report's findings identify common themes, factors and characteristics of those water bodies with an outstanding status. The associated protection measures that followed from findings of the Court or Tribunal, are outside the scope of this report.

## Ecology

16. New Zealand's freshwater rivers and lakes provide a diverse range of habitats for a variety of fish, plant and bird species, many of which are also of scientific importance.
17. This section primarily discusses the value of these habitats for native species, with the exception of Paragraphs 76 108 which discuss the value of these habitats for trout and salmon.

### Ecology: habitat for indigenous plant communities

18. This section discusses the key characteristics WCO reports and recommendations have referred to when determining whether a water body provides an outstanding habitat for indigenous plant communities.
19. At least four water bodies have been assessed for WCO purposes for outstanding indigenous plant habitat values. Of these, three were found to provide an outstanding habitat for indigenous plant communities.

### Key findings

20. When determining if a water body provides a habitat which is nationally outstanding for indigenous plants, decision makers firstly consider if there is a direct link between the indigenous plant communities and the water body itself, and then secondly, whether the plant communities contain any special features found in few other water bodies in New Zealand.
21. Decision makers have determined a direct link between the indigenous plant communities and the water body to be when the plant community is reliant on the river flow or water levels, or where it is an integral part of the water body.
22. When determining if the indigenous plant communities contain any special features, decision makers focused on size, diversity of habitats, rare and threatened plant species, and considered the extent that these are found in other water bodies nationally.
23. The Rangitata River, Te Waihora/Lake Ellesmere and Te Waikoropupū Springs have an outstanding habitat for indigenous plant communities. Table 1 sets out key features of these indigenous plant communities.

**Table 1: Key features: outstanding habitat for indigenous plant communities**

Water Body	Reliance on water body	Special feature(s)
Upper Rangitata River	Indigenous plant communities are reliant on the river flows.	High diversity of vegetation types, including rare and threatened species, on a variety of different aged surfaces. Extensive moss fields located on ancient stable riverbeds. Old intact plant communities, unmodified communities that are rare.
Te Waihora / Lake Ellesmere	Wetland complex is an integral part of the water body.	New Zealand's largest coastal lagoon. High diversity of habitats, with rare and threatened plant species, and a complexity of communities and associations, not found anywhere else in the country.
Te Waikoropupū Springs	Aquatic flora is integral part of the water body.	Diverse flora (38 species). Mosses and liverworts that are unique in New Zealand (including submerged moss species, which are typically only emergent; unusual growth forms of moss).

### What is not outstanding?

24. The indigenous plant habitat provided by the following water bodies, or sections thereof, have been assessed for WCO purposes and found to not be outstanding in a national context. The discussions contained within these WCO reports and recommendations demonstrate when an indigenous plant habitat value does not meet the outstanding threshold. A summary of the key findings is set out below:
  - 24.1 In 2002, the indigenous plants communities in the lower Rangitata River were found to not be outstanding, with the Special Tribunal noting "*sustainability is compromised by weeds; representativeness is low as few indigenous plants and communities remain and weeds are dominant*".
  - 24.2 In 2002, the Special Tribunal ruled out considering the 'outstandingness' of riparian vegetation alongside the Rangitata River noting "*riparian vegetation is less directly affected by the river itself and more by land management*".

- 24.3 In 2010, the assemblage of nationally threatened plants on the Nevis Valley floor were found to be outstanding, but not for WCO purposes, with the Special Tribunal finding that the assemblage of plants did not to have sufficient nexus to the Nevis River.

## Discussion

25. When determining if a water body provides habitat for indigenous plants that is nationally outstanding, decision makers consider the relationship between the indigenous plant communities and the water body itself, and whether the plant communities contain any special features found in few other water bodies in New Zealand.
26. The discussions contained within these WCO reports and recommendations in support of these findings are discussed between Paragraphs 28 to 38. The required evidence is discussed between Paragraphs 40 to 41.
27. The reliance of plant communities on the water body
28. In order to be considered for a nationally outstanding status, the plant community must be reliant on the river flow or water levels, or be an integral part of the water body.
29. In 2002, the Special Tribunal considered vegetation in the riverbed of the Rangitata River for an outstanding status, noting it to be directly affected by the river in an ongoing manner, and therefore part of the river. At the same time, riparian vegetation was excluded from their assessments with the Special Tribunal noting *"it was less directly affected by the river itself"*.
30. This is consistent with the findings of the Special Tribunal considering the Nevis River in 2010. In this case, the Tribunal acknowledged the indigenous plant communities on the Nevis Valley floor are outstanding in their own right, however subsequently found that given there is not a sufficient nexus to the river, the valley floor plant communities' 'outstandingness' could not be considered for the purposes of a WCO. The Special Tribunal notes:
31. *"There was certainly no evidence of a direct link in the nature of reliance or dependence on the part of any of these plants vis-à-vis the river"....." Mr Smith, counsel for Pioneer, put the point in the form of a question: if the river stopped dead, would these plants still exist? As he pointed out, there was nothing in the evidence to suggest that they would not"*.
32. In 2011 and 2020 respectively, Te Waihora/Lake Ellesmere and Te Waikoropupū Springs were found to support an outstanding wetland complex and habitat for aquatic organisms which included the aquatic flora. Being springs and a wetland /lake area the indigenous plant communities form an integral part of these water bodies.
33. What is a 'special feature' of an indigenous plant communities?
34. Past WCO reports and recommendations refer to 'special features' of indigenous plant communities as being where the water body supports a plant community with distinctive characteristics such as a large size, high diversity of habitats or rare and threatened species, found in few other water bodies across New Zealand.
35. In 2020, the aquatic flora value of Te Waikoropupū Springs was found to be outstanding. The Tribunal specifically noted the springs support a diversity of flora, including mosses and liverworts that are unique in New Zealand. The basin contains around 38 species of flora, including submerged species of moss which are typically only emergent, with several having unusual growth forms.
36. In 2002, the upper Rangitata River was found to have outstanding scientific and ecological values for indigenous plants and their communities, because of the variety of different aged surfaces. The upper Rangitata River supports a high diversity vegetation types, including rare and threatened species. Ancient stable riverbeds support extensive moss fields and there are old intact plant communities and unmodified communities such that are rare.
37. In the WCO report and recommendation for the Rangitata River, the Special Tribunal states *"we note that most of the indigenous plant species themselves are found in other types of rivers and habitats and are therefore not outstanding"*. This supports the finding that simply being intact with numerous indigenous plants is not a 'special feature' in itself when it comes to determining 'outstandingness'; the feature of the plant community must be 'special' and also found in few other water bodies across New Zealand.
38. In 2011, Te Waihora/Lake Ellesmere was found to provide habitat that supports an outstanding indigenous wetland complex. Te Waihora/Lake Ellesmere is New Zealand's largest coastal lagoon, with a high diversity of habitats, with rare and threatened plant species, and a complexity of communities and associations not found anywhere else in the country.
39. Supporting evidence
40. When assessing whether a water body provides an outstanding habitat for indigenous plant communities, decision makers have sought extensive evidence in support of the claimed outstanding features. Where insufficient evidence

exists to satisfy decision makers that the outstanding features are present, an outstanding status has not been recommended.

41. In respect of outstanding habitat features, the types of evidence specifically referred to in WCO reports and recommendations include: expert evidence, studies and investigation undertaken as part of the WCO process, and past assessments and importance rankings in documents produced independently of the WCO application process such as the Waters of National Importance, New Zealand Geoscience Society's Geopreservation Inventory and the Protected Natural Area (PNA) surveys.

### Ecology: native fish habitat

42. This section discusses the key characteristics referred to in WCO reports and recommendations when determining whether a water body provides an outstanding habitat for native fish.
43. At least eight water bodies have been assessed for WCO purposes in respect to outstanding native fish habitat values.

### Key findings

44. When determining if a water body has an outstanding habitat for native fish, decision makers have focused on whether the habitat supports an assemblage of native fish that has distinctive or unique characteristics, or whether it supports a significant population of a native fish species.
45. Decision makers have determined a distinctive or unique assemblage of native fish species to be when the habitat supports a genetically distinct species not found anywhere else in the world; a species or assemblage of fish not affected by presence of introduced species (i.e. is landlocked), or a high diversity of native fish species, including some of which are threatened or rare, found in few other water bodies.
46. The Buller River, Manganuioteao River, Rakaia River, Kawarau River, Grey River and Te Waihora/Lake Ellesmere were found by decision makers to have outstanding habitats for native fish. Table 2 sets out the key features of these native fish populations.

**Table 2: Key features: outstanding habitat for native fish**

Water Body	Provides critical habitat for: an unusual, unique or distinctive assemblage of native fish species OR for a significant proportion of the national population of a particular native fish species
Buller River (tributaries of the Maruia River)	Unusual assemblage of native galaxiid fish. The only known populations of long jawed galaxias, alpine galaxias and the common river galaxias, west of the main divide.
Buller River (Lake Daniells)	Landlocked population of koaro likely to be of scientific interest themselves.
Buller River (Lake Rotoiti and Lake Rotoroa)	The only significant populations of long finned eels within reserve areas in NZ which have unimpeded access to the sea + important source of breeding eels to help maintain national eel stocks.
Buller River (upper Matiri River and Lake Matiri)	High number and diverse range of native fish. Habitat in Lake Matiri particularly valuable for native fish, given no trout are present which means lack of competition.
Nevis River (Kawarau River)	Presence of genetically distinct species not found anywhere else in the world.
Grey River (Lake Cristabel)	Landlocked population of native fish with high scientific values. There are no introduced species in the lake.
Te Waihora/Lake Ellesmere	Long Finned eels are present in the catchment, with the population estimated to contribute around 2% of the national annual spawning population. Identified as an outstanding customary fishery. High diversity of native fish species in wider area (forty six species of native fish), including large populations of smelt, common bullies, flounder and short and long finned eels.

### What is not outstanding?

47. The native fish habitat provided by the following water bodies was assessed for WCO purposes and found to not be outstanding in a national context. The discussions contained within these WCO reports and recommendations demonstrate when a native fish habitat value does not meet the outstanding threshold. A summary of the key findings is set out below:
  - 47.1 The Rangitata River supports 16 different native fish species, including the vulnerable long jawed galaxias which, while confined to the upper reaches, is also present in other rivers and therefore not outstanding.

- 47.2 The Oreti River supports 14 native fish species and relatively high densities of the southern flathead galaxid. While recognised as providing very important habitat for both long finned eels and giant kokopu which are in decline, both species are widespread throughout much of the country and therefore not outstanding.
- 47.3 The Grey, Manganuioteao, and Rakaia Rivers were all found to contain a high diversity of native fish, but with no special features the native fish populations were found to not be outstanding in a national context.
- 47.4 In the case of the Manganuioteao River, 11 species of native fish were recorded, including the short-jawed kokopu, which was cited as being rare, but also widespread throughout the country and therefore not outstanding.
- 47.5 The Mohaka River was found to support native fish species, however the native fish diversity did not stand out, and none of the species are rare or endangered, and therefore not outstanding.
- 47.6 The Ahuriri River was found to contain stocks of native fish, however none are regarded as rare or endangered, and therefore not outstanding.
- 47.7 The New, Lyell, Doctors and Pensini Creeks & Newton River (Buller River WCO) were found to support a high diversity of native fish, including the short jawed kokopu. While the short jawed kokopu is a Category A threatened species, it is found in other parts of the country and evidence did not show habitat 'stood out' for this species of fish, and therefore is not outstanding.

## Discussion

- 48. When determining if a water body provides an outstanding habitat for native fish, decision makers have focused on whether the habitat supports an assemblage of native fish that has distinctive, unusual or unique characteristics or a high diversity of native fish species, some of which are threatened or rare, or where it supports a significant national population of a native fish species.
- 49. The discussions contained within these WCO reports and recommendations in support of these findings are discussed in Paragraphs 51 to 67. The extent to which decision makers take into account the condition of the native fish habitat is discussed in Paragraphs 67 to 72. The required evidence is discussed in Paragraphs 74 to 75.
- 50. Distinctive, unusual or unique native fish assemblage
- 51. When native fish habitat is being considered, the distinctive, unusual and unique characteristics of certain native fish populations are commonly discussed in WCO reports and recommendations.
- 52. In 2013, the Environment Court amended the Kawarau River WCO to recognise the habitat the Nevis River provided for non-migratory galaxiids as an outstanding value. The key factor referred to in this decision was the presence of the Nevis Galaxia. The Nevis Galaxia is a genetically distinct species which represents the most ancient offshoot from the ancestral Gollum galaxiid population. Prior to this discovery, the native fish habitat of Nevis River was not recognised as an outstanding value.
- 53. When discussing the native fish habitat values of the Grey River, the Tribunal found Lake Cristabel to be outstanding for native fish habitat, with high scientific values, noting it is one of the few landlocked lakes in New Zealand containing native fish not affected by the presence of introduced species.
- 54. In 1996, the Planning Tribunal found Lake Daniells and the tributaries of the Maruia River (Buller River WCO) to provide an outstanding habitat for native fish, on the basis they supported a distinctive or unusual assemblage of galaxias. The Maruia River tributaries support the only known populations of long jawed galaxias, alpine galaxias and the common river galaxias, west of the main divide<sup>1</sup>, and Lake Daniells a landlocked population of koaro.
- 55. When discussing native fish values of Lakes Rotoiti and Rotoroa (Buller River WCO) the Planning Tribunal found these lakes to contain outstanding native fish habitat, which New Zealand wide supports the only significant population of long finned eels within reserve areas that have unimpeded access to the sea, and to provide an important source of breeding eels to help maintain national eel stocks.
- 56. Lake Matiri (Buller River WCO) was also found to provide outstanding native fish habitat, with the Planning Tribunal finding it supported a high number and diverse range of native fish, including several threatened species, with the absence of trout from Lake Matiri noted as being particularly valuable for native fish, due to a lack of competition.

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<sup>1</sup> This is expected to have occurred as a result of the small streams flowing into the river changing directing at some stage in geological times.

57. High diversity of native fish, including presence of threatened, rare or distinctive species
58. When considering the diversity of native fish populations, decision makers have looked for a high diversity of native fish, which includes a threatened, rare species or distinctive species, not generally present in other water bodies.
59. This finding is consistent with discussions in the following WCO reports and recommendations, where decision makers have determined a water body not to provide an outstanding native fish habitat, despite the habitat being relatively unmodified and supporting a high diversity of native fish, on the basis there are no threatened, rare or distinctive species present in the assemblage.
60. In 2007, the Special Tribunal found the native fish habitat of the Oreti River to not be outstanding, despite supporting 14 native fish species. Of the 14 native species, 10 are migratory, two are 'in decline' and relatively high densities of the southern flathead galaxid were found. The Special Tribunal concluded:
- "there are no known features of the native fish populations of the river that we consider make it "outstanding" in a national context. While both long-finned eels and giant kokopu are "in decline", both species are widespread throughout much of the country. The Oreti is important as a habitat for these species and others, but this does not make it outstanding".*
61. This is consistent with discussions contained in the WCO report and recommendation for the Rangitata River. Here, the Special Tribunal concluded the native fish habitat was not outstanding, despite 16 different species being recorded in the river, including the long jawed galaxias confined to its upper reaches. The Rangitata River is typical of an East Coast braided river, with high densities of fast water species, however no rare or endangered species of native fish are identified. The long jawed galaxias has very restricted distribution however, it is also present in three other rivers in Canterbury.
62. Similarly, discussions by the Committee in the Ahuriri River WCO report and recommendation, concluded that while the Ahuriri River contains stocks of native fish, none are regarded as rare or endangered, and while these fish are important it is the presence of trout that makes the Ahuriri River stand out.
63. When assessing the Mohaka River, the Planning Tribunal did not find the Mohaka River to provide outstanding native fish habitat, noting *"the Mohaka River does not have as great a diversity of freshwater fish Species.... There are no rare or endangered species among the native fish found in the Mohaka River, and none form a fishery of national importance"*.
64. When discussing the Grey River, the Tribunal concluded that despite the high diversity of native fish species present (16 in total, 13 needing access to the sea), and their migratory nature, this is not enough on its own to determine that the Grey River is outstanding for native fish habitat.
65. A similar determination was made in the Manganuioteao River WCO report and recommendation. Here, the Tribunal concluded that while the Manganuioteao River supports 11 species of native fish, including the short-jawed kokopu which is widespread but rare, there is no evidence which suggests the native fish population is outstanding.
66. Discussions by the Committee in the Rakaia River WCO report and recommendation are consistent with other WCO reports and recommendations. The Rakaia River contains 19 native species, none of which are of endangered and while the Committee stated this should not be undervalued, the Rakaia River was found to not be outstanding for native fish habitat values.
67. In 2011, Te Waihora/Lake Ellesmere was identified as containing an outstanding habitat for indigenous fish. Forty six species of fish have been recorded in the surrounding area, and the Lake is known to support large populations of smelt, common bullies, flounder and short finned eels. Long Finned eels are present in the catchment, with the population estimated to contribute around 2% of the national annual spawning population.
68. Condition of native fish habitat
69. The condition of native fish habitat is commonly discussed by decision makers when evaluating the native fish habitat provided by a water body.
70. Despite this, an intact native fish habitat with high water quality, was not found to be a critical feature of an outstanding native fish habitat, and conversely largely unmodified water bodies which support a high diversity of native fish is not immediately awarded an outstanding status.
71. This finding is consistent with the discussions contained within the Te Waihora/Lake Ellesmere WCO report and recommendation. Here, Te Waihora/Lake Ellesmere is identified as containing an outstanding habitat for indigenous fish, despite the lake being one of the most eutrophic (enriched) lakes in New Zealand.

72. Conversely, the native fish habitat of the Manganuioteao, Buller, Rakaia, Grey, Rangitata, Oreti and Ahuriri Rivers are all largely intact, with exceptionally high water quality in some cases. However, as discussed above the native fish habitat was found to not be outstanding in several of these cases.
73. Supporting evidence
74. When assessing whether a water body provides an outstanding habitat for native fish, decision makers have sought extensive evidence in support of the claimed outstanding features. Where insufficient evidence exists to satisfy decisions makers that there are outstanding features are present, an outstanding status has not been recommended.
75. Evidence specifically referred to in past WCO reports and recommendations, in support of outstanding habitat features, includes: expert evidence, studies and investigation undertaken as part of the WCO process and past assessments, and importance rankings in documents produced independently of the WCO application process such as the 2004 Waters of National Importance.

### Ecology: fish habitat (trout and salmon)

76. This section discusses the key features and characteristics shared by those water bodies that provide an outstanding habitat for trout or salmon.
77. At least nine water bodies have been assessed for WCO purposes in respect to outstanding trout and/or salmon habitat values. This section specifically focuses on the biological features of the trout and salmon populations supported by these habitats. The recreational angling (fishing) experience is discussed in Paragraphs 194 to 287.
78. Notwithstanding, while WCOs typically protect trout and salmon fisheries in a recreational and biological sense separately, the two value sets are closely connected given it is the biological features of the habitat and fish population itself which underpin the angling experience.

### Key findings

79. When assessing if a water body provides an outstanding habitat for trout or salmon, decision makers have firstly established if the water body itself (or section thereof) has an associated outstanding angling amenity or is a critical component to maintaining an outstanding angling amenity<sup>2</sup> elsewhere in the catchment.
80. Once an associated outstanding amenity has been established (see Paragraphs 84 to 94), decision makers have gone on to:
- (a) consider if the fish habitat naturally<sup>3</sup> supports the exceptional biological characteristic which underpins the recreational fishing experience such as, large fish or high fish numbers, and
  - (b) then consider the fish habitat itself and the extent to which other sections of the water body, or other water bodies within the catchment, contribute to the outstanding angling amenity.
81. The Ahuriri River, Buller River, Matura River, Manganuioteao River, upper Mohaka River, Motueka River, Nevis River, Oreti River Rangitata River, Rakaia River and many of their tributaries, were found by decision makers to provide an outstanding habitat for trout or salmon. Table 3 sets out the key features of the trout and salmon habitats.

**Table 3: Key features: outstanding habitat for trout and salmon**

Water Body	Provides an outstanding angling amenity	Self-sustaining: supports a wild trout / salmon population	Contributes to the outstanding angling amenity (critical in maintaining a section of river identified as providing an outstanding angling amenity - through spawning, rearing, fish passage, flows)
<b>Ahuriri River &amp; tributaries</b>	Outstanding angling amenity - Ahuriri River.	Self-sustaining.	Ahuriri River tributaries identified as contributing to the outstanding angling amenity.
<b>Upper Buller River catchment</b>	Outstanding angling amenity - Maruia River, Matura River, sections of the Buller River and various other water bodies in upper Buller catchment.	Self-sustaining.	Various rivers and tributaries identified as contributing to the outstanding angling amenity.
<b>Manganuioteao River &amp; tributaries</b>	Outstanding angling amenity - Manganuioteao River.	Self-sustaining.	Mangaturuturu and Makatote Rivers, and Waimarino and Orautoha Streams identified as contributing to outstanding angling amenity in Manganuioteao River

<sup>2</sup> Also referred to 'outstanding recreational fishing experience', or 'outstanding recreational fishery' in WCO reports and recommendations.

<sup>3</sup> Self-sustaining trout population (i.e. sustain a wild trout or salmon population without restocking from hatcheries).

<b>Upper Mohaka River &amp; tributaries</b>	Outstanding angling amenity - upper Mohaka River.	Self-sustaining.	Upper Mohaka River tributaries identified as contributing to outstanding angling amenity in the upper Mohaka River.
<b>Motueka River &amp; Wangapeka River &amp; tributaries</b>	Outstanding angling amenity - Wangapeka River & section of Motueka River.	Self-sustaining.	Various rivers and tributaries identified as contributing to the outstanding angling amenity in Wangapeka and Motueka Rivers.
<b>Oreti River &amp; tributaries</b>	Outstanding angling amenity - upper Oreti River.	Self-sustaining.	Weydon Burn, Windley River and all other tributaries upstream of the Oreti River identified as contributing to the outstanding angling amenity in Wangapeka and Motueka Rivers.
<b>Rangitata River &amp; tributaries</b>	Outstanding angling amenity - Rangitata River.	Self-sustaining.	Various rivers and tributaries identified as contributing to the outstanding angling amenity in the Rangitata River.
<b>Rakaia River &amp; tributaries</b>	Outstanding angling amenity - Rakaia River.	Self-sustaining.	Various rivers and tributaries identified as contributing to the outstanding angling amenity in the Rangitata River.
<b>Rangitikei River &amp; tributaries</b>	Outstanding angling amenity - Rangitikei River.	Self-sustaining.	Various rivers and tributaries identified as contributing to the outstanding angling amenity in the Rangitikei River.

## Discussion

82. All water bodies identified as providing an outstanding habitat for trout or salmon, by way of a WCO, naturally support at least one of the exceptional biological features described in Paragraph 96. It is these features which underpin the outstanding angling amenity that the water body provides or contributes to.
83. The discussions contained within these WCO reports and recommendations in support of these findings are discussed in more detail below in Paragraphs 84 to 94. The extent to which decision makers have taken into account the condition, or any special features, of the habitat is discussed in Paragraphs 104 to 105. The required evidence is discussed in Paragraphs 107 to 108.
84. Outstanding angling amenity
85. When considering the habitat a water body provides for trout or salmon, decision makers have determined that a water body cannot be identified as providing outstanding habitat, unless the water body has an outstanding angling amenity, or is a critical to maintaining an outstanding angling amenity elsewhere in the catchment.
86. This requirement is clearly set out in the WCO report and recommendation for the upper Gowan River, where the Planning Tribunal stated while it is clear on trout numbers alone the upper Gowan River could be said to be outstanding in a national context, this section of river "*does not have the necessary combination of abundance of fish and angling amenity to justify a finding that it contains an outstanding recreational fishery*".
87. This is consistent with the findings of the Special Tribunal considering the middle flats of the Nevis River, who found when combined, the trout size and associated angling amenity did not stand out when compared to other headwater fisheries in New Zealand, and fell short of crossing the outstanding threshold. The Special tribunal notes:
- "It is certainly true that the Nevis population seems to harbour a disproportionately large number of 60cms plus fish. But then so do a number of other fisheries - even in the Otago/Southland area. As to the back country or headwater fishery a number of other fisheries, again in the lower South Island, were mentioned in evidence such as the Oreti. Indeed it was acknowledged that nationally there are approximately 160 headwater fisheries and 'a couple of hundred' back country ones. We tested a number of the witnesses giving evidence relevant to this issue and it was significant to us that none were prepared to go as far as to claim this fishery was unique in New Zealand or even close to that".*
88. Notwithstanding, while the Nevis and Gowan Rivers do not have an associated outstanding angling amenity themselves, both are recognised as contributing to an outstanding angling amenity elsewhere in the catchment (see Paragraphs 89 to 94).
89. Contributing to an outstanding angling amenity
90. For each water body that has an outstanding angling amenity, there are a number of tributaries which have trout or salmon habitat that is essential for the maintenance of the outstanding angling amenity.
91. In particular, these tributaries are recognised as providing an outstanding trout or salmon habitat for the contributions they make to an outstanding angling amenity elsewhere in the catchment, through features such as spawning, rearing, fish passage, water quality and flows.
92. This is consistent with the Special Tribunal's findings on the Rangitata River in 2002, who noted:

*"We find that the Rangitata River provides an outstanding salmon fishery in the upper Rangitata River and in the lower river (gorge to sea) because of the spawning and rearing habitat in the upper river, and the ability provided by the flow regime and water quality that enables juveniles to migrate to sea and adult salmon to return. We find that the gorge, while being more difficult for adults to move upstream, contributes to the outstanding salmon fishery."*

93. Similarly, the Special Tribunal found the upper Oreti River to provide an outstanding habitat for brown trout along its length, while only recognising the outstanding angling amenity in its upper reaches.
94. This finding is also consistent with the WCO reports and recommendations for the Ahuriri, Buller, Maitua, Manganuioteao, upper Mohaka, Motueka, Nevis and Rakaia River's all of which identify a number of tributaries as providing an outstanding habitat for trout or salmon which contribute to an outstanding angling amenity in these rivers, but the tributaries themselves do not have an associated outstanding angling amenity.
95. Biological features
96. Water bodies identified as providing an outstanding habitat for salmon or trout naturally support an exceptional biological feature by way of:
- a. an abundance of fish; or
  - b. exceptionally large fish; or
  - c. high numbers of large fish.
97. These features form the basis of the different outstanding recreational fishing experiences<sup>4</sup> discussed in WCO reports and recommendations released by various courts and tribunals (see Paragraphs 195 to 288).
98. Self-sustaining
99. All water bodies identified as providing an outstanding recreational fishery, by way of a WCO, are wild fisheries that are self-sustaining through natural replacement, rather than through regular restocking from hatcheries.
100. When discussing the trout fishery provided by the Maitua River the Special Tribunal specifically noted in its findings that *"we take into account that for some years now, the system has not been artificially stocked"*.
101. Similarly, when discussing the salmon fishery provided by the Rangitata River, the Special Tribunal stated *"the Rangitata River has provided, for over 90 years, one of few self-sustaining salmon fisheries outside its native range"*.
102. This is consistent with discussions in the Motueka River WCO report and recommendation, where the Motueka catchment was noted as providing a self-sustaining wild trout habitat, which has excellent natural spawning in various tributaries and good fish access to these areas.
103. Habitat: special features and condition
104. All water bodies identified as providing an outstanding habitat for salmon or trout have some key natural features which underpin their high quality and allow the trout or salmon to thrive. These natural features are critical, without them, the 'outstanding' recreational fishing experiences referred to in Paragraphs 237 to 242 would not exist.
105. The key habitat features vary depending on the recreational fishing experience being protected. For example, salmon need to migrate up and down the river and through the river mouth as part of their life cycle, thriving in rivers that are largely unmodified. Trout need flow characteristics and fish passage, with the ability for juvenile trout to access the small shallow tributaries to take shelter. Both trout and salmon are particularly sensitive to water quality, temperature and flows.
106. Supporting evidence
107. When assessing whether a water body provides an outstanding habitat for trout and salmon, decision makers have sought extensive evidence in support of the claimed outstanding features. Where insufficient evidence exists to satisfy decision makers that the outstanding features are present, an outstanding status has not been recommended.
108. Evidence specifically referred to in past WCO reports and recommendations in support of outstanding habitat features includes: expert evidence, studies and investigation undertaken as part of the WCO process and past

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<sup>4</sup> For example, without a high trout biomass or high fish numbers there will not be an associated high catch rate.

assessments and importance rankings in documents produced independently of the WCO application process such as the 2004 Potential Water Bodies of National Importance.

## Ecology: wildlife habitat (aquatic birds)

109. This section discusses the common key characteristics referred to in WCO reports and recommendations when decision makers have been determining whether a water body provides an outstanding habitat for aquatic birds.

110. At least ten water bodies have been assessed for WCO purposes for outstanding wildlife habitat values.

### Key findings

111. When determining if a water body provides an outstanding habitat for aquatic birds, decision makers have assessed a different combination of features, depending on whether the habitat is valuable to a particular aquatic bird species (Paragraphs 112 to 114), or as a global wildlife habitat used by a high diversity of aquatic birds (Paragraphs 116 to 119).

#### 112. Aquatic birds (single species)

113. When assessing if a water body is outstanding as a wildlife habitat for a single species of aquatic bird, decision makers firstly establish whether the water body contains a critical habitat for a rare, threatened or distinctive species; and then secondly assess whether a sizeable proportion of the national population of the species are supported by the site.

114. Decision makers have determined a 'sizeable proportion of the population' to be either 5% of the national population, a density of one territorial breeding pair of blue ducks of per kilometre of river, or where the number of blue ducks is close to, and can support over, one blue duck pair per kilometre.

115. The Buller River, Manganuioteao River, Rangitata River and Rakaia River<sup>5</sup> were found by decision makers to have an outstanding wildlife habitat for a single species of aquatic bird. Table 4 sets out the key features of the aquatic bird population each habitat supports.

**Table 4: Key features: outstanding habitat for aquatic birds (single species)**

Water Body	Species (threat rating)	Proportion of national population
Manganuioteao River	Blue duck (endangered).	Territorial breeding pairs at a density of 1 pair per KM of river.
Fyfe River (Buller River)	Blue duck (endangered).	Breeding pairs at a density greater than 1 pair per KM of river.
Rakaia River	Wrybill (vulnerable).	20 – 30% of the national population.
Motueka River	Blue duck (endangered).	Breeding pairs at a density close to the 1 pair per KM of river + river has the potential to support this density.
Lower Rangitata River	Black Fronted Terns (endangered).	5% of the national population.
Oreti River	Black billed gull (endangered).	Greater than 5% of the national population.
Ngaruroro River	Banded dotterel & Black fronted dotterel (threatened).	Greater than 5% of the national population.
Ahuriri River	Black Stilt (endangered).	40 - 50% of the national population.

#### 116. Aquatic birds (global habitat)

117. When determining if a water body is outstanding as a 'global' wildlife habitat, decision makers firstly establish whether the water body provides a critical habitat for a high natural diversity of aquatic birds, and then if the habitat supports any species that are distinctive, endangered or threatened.

118. Discussions in past WCO reports and recommendations have found a high proportion of natural diversity of bird species to be anywhere between 23 and 170 different species of birds, with varying populations of endangered, threatened or distinctive species.

119. Lake Wairarapa, Ahuriri River, Te Waihora/Lake Ellesmere and Rangitata River were found to provide a 'globally' outstanding habitat for aquatic birds. Table 5 sets out the key features of the bird populations each habitat supports.

<sup>5</sup> The Rakaia River was found to provide an outstanding wildlife habitat for Wrybill and as a wildlife habitat in general.

**Table 5: Key features: outstanding habitat for aquatic birds (global habitat)**

Water Body	Natural diversity of aquatic birds	Distinctive, endangered or threatened species
Lake Wairarapa	High natural diversity of birds.	Supports populations of threatened and endangered aquatic bird species.
Ahuriri River	High diversity of birds (58 species recorded, 17 endemic species).	Supports populations of threatened and endangered aquatic bird species.
Te Waihora/ Lake Ellesmere	One of the widest diversity of species of any NZ locality (170 species of bird recorded on or around the lake, 80 species on a regular basis, over 1/3 of the 305 species recorded in NZ) a total of 20,000 to 50,000 birds counted at the lake.	Supports populations of threatened and endangered aquatic bird species.
Rangitata River	High diversity of aquatic bird species (23 different species).	Substantial populations of four threatened and endangered braided river species.

### What is not outstanding?

120. The aquatic bird habitat provided by the following water bodies was assessed for WCO purposes and found not to be outstanding in a national context. The discussions contained within these WCO reports and recommendations demonstrate when a wildlife habitat for aquatic birds does not meet the outstanding threshold. A summary of the key findings is set out below:

- 120.1 In 1990, the Tribunal concluded that the Mohaka River did not provide an outstanding wildlife habitat for the endemic blue duck, given its highly fragmented population of isolated groups of individuals.
- 120.2 In 2004, the Environment Court determined that the 2 – 4% population of Black Billed Gulls did not constitute a ‘significant proportion’ of the national population of Black Billed Gulls and subsequently did not find the Rangitata River to provide an outstanding habitat for this endangered species of birds.
- 120.3 In 2010, the Special Tribunal did not find the Nevis River (Kawarau River WCO) to provide an outstanding habitat for aquatic birds, stating that although some of the species are threatened, the low diversity and small numbers of aquatic birds supported by the habitat could not be described as outstanding.
- 120.4 In 2019, the Tribunal determined the upper Ngaruroro River did not provide an outstanding avifauna habitat, given the blue duck population supported by the habitat was not greater than 5% of the national population.

### Discussion

121. When determining if a water body provides an outstanding habitat for aquatic birds, decision makers have focused on whether the water body provides critical habitat for either:

- 121.1 a sizable proportion of the national population of an endangered, threatened or distinctive species of aquatic bird; or
- 121.2 a high natural diversity of aquatic bird species, some of which includes species that are distinctive, endangered or threatened.

122. The discussions contained within these WCO reports and recommendations in support of these findings are discussed in more detail between Paragraphs 123 to 140. The extent to which WCO decisions take into account the condition of the wildlife habitat is discussed between Paragraphs 141 to 145. The required evidence is discussed in Paragraphs 148 and 149.

#### 123. ‘Sizeable’ proportion of an endangered, threatened or distinctive species of aquatic birds?

124. When determining if the water body provides a critical habitat for a single species of aquatic birds, decision makers have considered both the threat category of the birds and their associated numbers, and then determined, when combined, if they demonstrate an outstanding nature.

125. In 2004, when considering the value of the habitat for black billed gull and black fronted terns, and their associated numbers, the Environment Court notes "*the question for us is whether those populations make the lower river outstanding*". The interim decision further notes:

- (a) The lower Rangitata River's rating in the 1983 sites of special wildlife interest surveys and in a report undertaken in 2000 which ranked 272 Canterbury water bodies for their significance for indigenous birds.

(b) Mr Davidson QC's submission ".....that the rigorous test for "outstanding", articulated in *Re an inquiry into the Draft National Water Conservation (Mohaka River) Order W20/92* is not met anywhere in the lower river. He stated that the mere presence of endangered species cannot be sufficient on its own, and pointed out that there may be hundreds of such water bodies in New Zealand."

126. Exactly what constitutes a 'sizeable' population of endangered, threatened or distinctive aquatic birds has been discussed in a number of WCO reports and recommendations. In 2004, when discussing the wildlife habitat values of the Rangitata River, the Environment Court found:

*"...in absence of any special factors we conclude that to qualify as outstanding the cut-off point should be a minimum of 5% of the national population".*

127. In making this decision, the Environment Court specifically overturned the Special Tribunal's earlier finding that the Rangitata River provided an outstanding wildlife habitat for Black Billed Gulls. In this case, the Environment Court concluded that the lower Rangitata River was outstanding solely for Black Fronted Terns who have at least 5% of their population breeding on the lower river. The population of Black Billed Gulls, between 2-4% of the national population, was found to not be outstanding.

128. In 2007, this determination was subsequently relied on by the Special Tribunal when considering the wildlife habitat provided by the Oreti River. In this case, The Special Tribunal found that that the '5% threshold' used in the Rangitata River WCO is far exceeded for the black billed gull population in the Oreti River and it is therefore outstanding.

129. This is consistent with the findings of the Tribunal considering the significance of the Ngaruroro River as an avifauna habitat in 2019. In this case, the Tribunal determined that the blue duck population was not greater than 5% and therefore the associated habitat is not outstanding, while finding the habitat of the lower Ngaruroro to be outstanding, based on the populations of banded and black fronted dotterels which exceed the '5% threshold'.

130. The Oreti River WCO has the only WCO to protect wildlife habitat since the Environment Court adopted the '5% national population threshold' in 2004<sup>6</sup>. Notwithstanding, this is consistent with pre 2004 findings where those water bodies identified as providing an outstanding wildlife habitat support:

130.1 at least 5% of the national population of an endangered, threatened or distinctive species of aquatic bird; or

130.2 for blue ducks, meet the territorial breeding pair density threshold of 1 pair or more per KM of river.

131. In 2003, the wildlife habitat provided by the Rakaia River was found to be outstanding with the river supporting between 20 – 30% of the total population of Wrybills in New Zealand. This is well above the '5% threshold'.

132. In 1988, the blue duck habitat provided by the Manganuioteao River, was found to support at least one territorial breeding pair of Blue Ducks of per kilometre of river, and deemed outstanding. This threshold was subsequently relied on by the Special Tribunal in 1996 when considering the Buller River WCO application and the Fyfe River was identified as having outstanding wildlife habitat features for Blue Duck.

133. In 2003, the breeding pair density threshold for blue ducks was considered by the Tribunal assessing the wildlife habitat provided by the Motueka River. In this case, the Environment Court found that while the habitat did not meet the breeding pair density threshold used in the Buller WCO, the habitat supports a significant number of blue ducks and has the potential to support this density. Consequently, the Court determined that native bird habitat to be outstanding for WCO purposes.

134. High natural diversity of aquatic bird species

135. When considering if the water body provides a critical habitat for a high diversity of aquatic birds, decision makers have considered both the variety of species, and their associated numbers, and then determined when combined, if they demonstrate an outstanding nature.

136. The numbers and species of aquatic birds are discussed in WCO reports and recommendations when decision makers have evaluated the global value of a wildlife habitat for a variety of species. All water bodies previously identified as providing an outstanding habitat for a high diversity of aquatic birds include species which are rare, threatened or distinctive (see Paragraphs 137 to 140).

137. The Ahuriri River was found to provide an outstanding wildlife habitat, which supported a diverse wetland bird community, by providing feeding and breeding grounds for significant numbers of waders, gulls and terns all year

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<sup>6</sup> A WCO for the Ngaruroro River is not confirmed. A Special Tribunal has reported on the application, but subsequent Environment Court proceedings are ongoing at time of writing.

round. Fifty eight species of birds were recorded using the habitat, of which 17 were endemic, including the endangered Black Stilt.

138. Te Waihora/Lake Ellesmere was found to provide an outstanding wildlife habitat for WCO purposes, based on an *“extremely wide range of birdlife”*. Te Waihora/Lake Ellesmere supports one of the widest diversity of species of any NZ locality, with 116 species of birds recorded using the lake and marginal vegetation of that, 80 species regularly use the lake. Total bird counts on the lake are typically in the range of 20,000 to 50,000.

139. The upper Rangitata River was found to be globally outstanding as a native bird habitat, with the Tribunal concluding the water body provides a habitat with high levels of naturalness that supports a high diversity of aquatic bird species. The upper Rangitata River supports 23 different species of aquatic birds, including substantial populations of four threatened braided river species.

140. Lake Wairarapa was found to provide an outstanding wildlife habitat. Lake Wairarapa has a high proportion of natural diversity of bird species, including a number of threatened and endangered species, and was assessed as meeting four of the eight IUCN criteria<sup>7</sup>, which identify wetlands of international importance.

#### 141. Condition of habitat

142. The size, type and condition of the habitat is commonly discussed by decision makers when evaluating whether a water body provides an outstanding habitat for aquatic birds.

143. An unmodified intact habitat is not a critical feature of an outstanding aquatic bird habitat, with modified river sections identified as providing an outstanding aquatic bird habitat for WCO purposes. When assessing modified areas, decision makers have considered whether the characteristics of the habitat are still maintained by the river, despite the modifications.

144. This finding is consistent with discussions by the Special Tribunal who found the aquatic bird habitat in the lower Rangitata River to be outstanding for WCO purposes. Here the Special Tribunal specifically noted:

*“Despite the current level of abstractions, stop banks and other river works, weed encroachment, and other people related impacts, we conclude that the lower Rangitata provides nationally significant habitat for threatened aquatic bird species”.*

145. The wildlife value of the lower Rangitata River was re-considered by the Environment Court in 2004, who found the lower Rangitata River provided an outstanding habitat for black fronted terns.

146. Conversely, habitat types that are unmodified or rare do not immediately qualify as outstanding aquatic bird habitat. All water bodies previously identified as providing an outstanding wildlife habitat, provide critical habitat for either a high natural diversity of aquatic birds (see Paragraphs 134 to 140) or for a significant proportion of the national population of a single species of aquatic birds (see Paragraphs 123 to 133).

#### 147. Evidence

148. When assessing whether a water body provides an outstanding habitat for aquatic birds, decision makers have sought extensive evidence in support of the claimed outstanding features. Where insufficient evidence exists for decisions makers to be satisfied that the outstanding features are present, an outstanding status has not been recommended.

149. Evidence specifically referred to in past WCO reports and recommendations includes evidential sources such as expert evidence, studies and investigation undertaken as part of the WCO process and past assessments and importance rankings in documents produced independently of the WCO application process such as the:

- (a) 2004 Potential Water Bodies of National Importance.
- (b) International Union of Conservation of Nature Criteria
- (c) Ramsar sites criteria, which identifies wetlands of international importance and
- (d) New Zealand Wildlife Services Surveys which rated sites of special wildlife interest across the country.

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<sup>7</sup> International Union for Conservation of Nature.

## Significance in accordance with Tikanga Māori; and Cultural and spiritual values

150. Section 199(2)(b)(v) of the RMA provides for the protection of characteristics which are considered to be outstanding for 'spiritual or cultural purposes' which is not confined to only Māori values, whereas section 199(2)(c) of the RMA enables a WCO to provide for the protection of characteristics which are considered to be of outstanding significance in accordance with tikanga Māori.
151. This section is focused on the past WCO reports and recommendations where decision makers have discussed the characteristics of a water body which are considered to be:
- (a) outstanding for spiritual and cultural purposes, specific to tāngata whenua, for the purposes of protection under Section 199(2)(b)(v), and
  - (b) of outstanding significance in accordance with tikanga Māori, for the purposes of section 199(2)(c).
152. In 2019, when considering if any characteristics of the Ngaruroro River were outstanding for cultural and spiritual purposes pursuant to section 199(2)(b)(v), the Tribunal noted when making their findings *"the Tribunal is fully aware that there is a different threshold applicable to the one set out in s.199(2)(c)"*. Notwithstanding, the assessments of spiritual and cultural values and significance in accordance with tikanga Māori are commonly considered together:
- (a) In 2002, when considering whether any of the characteristics of the Rangitata River were outstanding for historical, spiritual or cultural purposes, the Special Tribunal noted *"that spiritual, cultural and historic purposes specific to Ngai Tahu are covered in the section of tikanga Maori"*.
  - (b) In 2011, when considering if any characteristics of Te Waihora/Lake Ellesmere were outstanding for historical, spiritual and cultural values and significance in accordance with tikanga Māori, the Committee noted *"although these characteristics were listed separately in the application, we have concluded they should be considered together"*.
  - (c) In 2020, when considering if the Te Waikoropupū Springs has outstanding value for cultural and spiritual reasons, the Special Tribunal noted *"The cultural and spiritual significance to Māori has been addressed in the section on Tikanga Māori"*.
153. The RMA defines tikanga Māori as "Maori customary values and practice". Cultural and/or spiritual value(s) are not defined in the RMA nor in the 'Definitions Standard' of the 2019 National Planning Standards.

### Tikanga Māori/Cultural and Spiritual

154. This section discusses the key features and characteristics referred to in WCO reports and recommendations when decision makers have determined whether a water body has features that are of outstanding significance in accordance with tikanga Māori or are outstanding for cultural and spiritual purposes specific to tāngata whenua.
155. The characteristics of at least four water bodies have been assessed for outstanding significance in accordance with tikanga Māori and for cultural and spiritual purposes (specific to tāngata whenua), for WCO purposes.

#### Key findings: tikanga Māori and cultural and spiritual values (specific to tāngata whenua)

156. When determining if a water body has characteristics which are considered to be outstanding for cultural and spiritual purposes (specific to tāngata whenua) or of outstanding significance in accordance with tikanga Māori, decision makers have established whether its features are of significance to much larger and more widely representative iwi groups, rather than solely for one iwi/hapu group; and whether these features are acknowledged as outstanding by the descendent groups most closely associated with the water body.
157. Water bodies identified as being of outstanding significance in accordance with tikanga Māori, for WCO purposes, meet both the tests referred to in Paragraph 156. Regardless of the associated features and importance of the water body, decision makers have not found a water body to have outstanding cultural and spiritual values (specific to tāngata whenua), or to be of outstanding significance in accordance with tikanga Māori, when descendent groups who closely associate with the water body do not all support an outstanding status.
158. Conversely, even when descendent groups acknowledge the features of a particular water body to be outstanding, these features must be of significance to a larger and more widely representative iwi group, rather than solely for one iwi/hapū group. In the case of Te Waihora /Lake Ellesmere these features were required to be of significance to Māori on a New Zealand wide basis.

159. The Rangitata River, Te Waihora/Lake Ellesmere, Te Waikoropupū Springs, and the Oreti River were found by decision makers to be of outstanding significance in accordance with tikanga Māori for WCO purposes. Table 6 sets out the key features of each of these water bodies.

**Table 6: Key features: outstanding significance in accordance with tikanga Māori**

Water Body	Key features / significance of features	Acknowledgement of outstanding features / name of iwi or hapū group
Te Waihora / Lake Ellesmere	<p>Te Waihora / Lake Ellesmere has outstanding significance as a customary fishery, mahinga kai, Ngāi Tahu history to Maori on a NZ wide basis, particularly:</p> <ul style="list-style-type: none"> <li>• The Lake is central in Ngāi Tahu’s present life and practices as well as being a central part of their history.</li> <li>• The Lake provides around 10% national quota of eels, historically over 50%, and has its own quota management area.</li> <li>• The Lake is an important mahinga kai for Ngāi Tahu for traditional hospitality and customary exchange for other resources.</li> </ul>	WCO application supported by Te Runanga o Ngāi Tahu, members of Ngāi Tahu with a very long association with the lake, and current managers within the iwi.
Oreti River	<p>The Oreti River is of outstanding significance to papatipu rūnanga in Murihiku and Te Rūnanga o Ngāi Tahu and Ngāi Tahu Whanui who represent various groups in the South Island, in particular:</p> <ul style="list-style-type: none"> <li>• The mauri of the upper Oreti River is robust and vibrant. The upper catchment is relatively unmodified, with high water quality, providing habitat for taonga species (wildlife and fish) particularly long-finned eel. It has continuous flow from its source to the coast.</li> <li>• Evidence of past occupation in the form of archaeological sites and remains.</li> <li>• Ngāi Tahu has a long association and involvement with the Oreti catchment and it remains culturally significant.</li> </ul>	WCO application supported by all four papatipu rūnanga in Murihiku, Te Rūnanga o Ngāi Tahu and Ngāi Tahu Whanui.
Rangitata River	<p>The Rangitata River has immense cultural, spiritual, traditional and historic significance to Te Rūnanga o Arowhenua and the much larger and more widely representative Te Rūnanga o Ngāi Tahu, who represent various groups in the South Island, in particular the Rangitata River:</p> <ul style="list-style-type: none"> <li>• has historical importance as a transport route between Canterbury to the West Coast; tauranga waka and mahinga kai.</li> <li>• has contemporary importance as mahinga kai, which forms a cornerstone of Ngāi Tahu culture and identity and continues to play a vital role in the health and well-being of Ngāi Tahu members. Plants, medicines and materials, and other food sources are still collected from the river.</li> <li>• is a taonga, a wāhi tapu, wāhi taonga, its mauri is intact and the river sustains healthy ecosystems.</li> <li>• The history of the Rangitata River is seen in place names (settlements &amp; food gathering sites). The tūpuna of Ngāi Tahu have intimate knowledge of navigation, river routes, tauranga waka and mahinga kai on the river.</li> </ul>	WCO application supported by Ngāti Huirapa o Arowhenua (hāpu of Ngāi Tahu Whānui), Ngāi Tahu Whānui <sup>8</sup> , and Te Rūnanga o Ngāi Tahu (the tribal representative body of Ngāi Tahu Whānui).
Te Waikoropupū Springs & Arthur Marble Aquifer	<p>Te Waikoropupū Springs has outstanding historical, spiritual and cultural significance to the people of Uri o Ngāti Tama and also to wider iwi groups in the South Island; in particular:</p> <ul style="list-style-type: none"> <li>• the significance of Te Waikoropupū Springs is demonstrated through waiata and legends, with its waters representing the lifeblood of Papatūānuku and the tears of Ranginui, symbolising the link between past and present. Huriawa, a kaitiaki taniwha, who was called forth to guard Te Waikoropupū, and rests within the limestone caves and underground streams of Te Waikoropupū.</li> <li>• Te Waikoropupū is a source of wai, an essential element of life.</li> <li>• Cultural traditions relate to the purity of water. Te Waikoropupū spring water is recognised as wāhi tapu (sacred place), and are called the “water of life” or Wai Ora, the purest form of freshwater. Generations of whānau have used these sacred waters for cleansing and spiritual healing.</li> </ul>	WCO application supported by Ngāti Rārua, Ngāti Tama, Te Atiawa, Te Atiawa o Te Waka a Maui Trust, Te Rūnanga o Toa RaNgātira Incorporated Te Rūnanga o Rangitane o Wairau, Te Rūnanga o Ngāti Kuia and Te Rūnanga o Ngāti Apa and Ms Jane Ruka Waitaha.

<sup>8</sup> Ngāi Tahu Whānui is the collective name given to the various Māori hapū and whānau that have always occupied the major and southern part of the South Island, including South Canterbury.

## What is not outstanding?

160. The Ngaruroro River, and certain values associated with Te Waihora/Lake Ellesmere, have been assessed by decision makers for WCO purposes and found to not have outstanding significance in accordance with tikanga Māori or outstanding cultural and spiritual values. Key findings are summarised below:

- a. In 2011, the cultural and spiritual values of Te Waihora/Lake Ellesmere were not found to be outstanding for WCO purposes. The committee noted *"there is no doubt that Te Waihora has significant cultural and spiritual value to Ngai Tahu. The challenge for us in relation to an application to amend a water conservation order, is to be satisfied that the cultural and spiritual values of the water body (in the case Te Waihora) are outstanding to Maori in a national context"*. The Committee noted that all iwi have strong association with the land, waters and lakes they historically occupied and Maori affiliations to water are very strong in many parts of the country (see Paragraph 175).
- b. In 2011, the waters of Te Waihora /Lake Ellesmere were not found to be outstanding in relation to the exercise of kaitiakitanga. The Committee noted *"Ngai Tahu holds kaitiaki over many resources. The same principle applies to all other iwi throughout the country. Nothing in the evidence presented to us persuaded us that the waters of Te Waihora stand out on a national basis in relation to the exercise of kaitiakitanga"* (see Paragraph 179).
- c. In 2019, the Ngaruroro River was not found to be outstanding for tikanga Māori despite the Tribunal acknowledging the significance of the Ngaruroro River to tāngata whenua. The Tribunal noted the absence of endorsement from all associated hapū and iwi closely associated with this section of water body (see Paragraph 167).
- d. In 2019, the Ngaruroro River was not found to be outstanding for cultural and spiritual purposes, noting *"while there is no doubt that both the upper Ngaruroro and the lower Ngaruroro water have significant cultural and economic importance to tāngata whenua, the absence of endorsement from all associated hapū and iwi, makes it difficult if not impossible on cultural ground for the Tribunal to independently find that these water bodies are of outstanding value for cultural and spiritual purposes"*.

## Discussion

161. Water bodies found to be of outstanding significance in accordance with tikanga Māori, contain features that are of significance to larger and more widely representative iwi groups. Furthermore, these features are acknowledged as outstanding by the descendent groups closely associated with the water body.

162. Decision makers have not found a water body to have outstanding cultural and spiritual values (specific to tāngata whenua), or to be of outstanding significance in accordance with tikanga Māori, when descendent groups who closely associate with the water body do not all support an outstanding status.

163. The discussions contained within these WCO reports and recommendations in support of these findings are further discussed in Paragraphs to 164 and 185. Treaty of Waitangi considerations are discussed in Paragraphs 186 to 190. The required evidence is discussed in Paragraphs 191 to 192.

### 164. Acknowledged as outstanding by the descendent groups

165. Water bodies identified as being of outstanding significance in accordance with tikanga Māori are acknowledged as outstanding by the descendent groups, namely whānau, hapū and iwi, most closely identified and associated with the water body.

166. This requirement is clearly set out the WCO reports and recommendations for the Ngaruroro River and Te Waikoropupū Springs, and is consistent with the findings made in respect to Te Waikoropupū Springs, Te Waihora /Lake Ellesmere and Oreti River WCO applications.

167. In 2019, the Tribunal considering the Ngaruroro River heard both supporting and opposing statements to the WCO application from submitters who have historical and customary connections to the Ngaruroro River. While the significance of the Ngaruroro River to tāngata whenua was acknowledged by the Tribunal, the application lacked an endorsement by all associated hapū and iwi, with the Tribunal specifically noting:

*"..for a waterway to be considered outstanding in accordance with tikanga Māori, the waterbody would be required to be acknowledged as such by the descent groups, namely whanau, hapū or iwi, being those most closely identified and associated with the waterbody subject to a WCO application"*.

and further noting:

*“..while there is no doubt that the upper and lower Ngaruroro water have significant cultural and economic importance to tāngata whenua, the absence of endorsement from all associated hapū and iwi, makes it difficult if not impossible on cultural grounds for the tribunal to independently find that these water bodies are of outstanding value for cultural and spiritual purposes”.*

168. In 2020, Te Waikoropupū Springs was found to be outstanding in accordance with tikanga Māori, with Ngāti Rārua, Ngāti Tama, Te Atiawa, Te Atiawa o Te Waka a Maui Trust, Te Rūnanga o Toa RaNgātira Incorporated Te Rūnanga o Rangitane o Wairau, Te Rūnanga o Ngāti Kuia and Te Rūnanga o Ngāti Apa and Ms Jane Ruka Waitaha all recognising the outstanding historical, spiritual and cultural values of Te Waikoropupū Springs.
169. In 2002, the Rangitata River was found to have a range of characteristics that are of outstanding significance in accordance with tikanga Māori. The Special Tribunal noted that Te Rūnanga O Ngāi Tahu supported a WCO being made over the Rangitata River. Te Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui, which is the collective name given to the various hapū and whānau that have always occupied the major and southern part of the South Island, including South Canterbury. The Ngāti Huirapa o Arowhenua is a hapū of Ngāi Tahu Whānui.
170. In 2007, the Oreti River was found by the Special Tribunal to have outstanding significance in accordance with tikanga Māori. Evidence in support of these values was presented in submissions on behalf of all four papatipu rūnanga in Murihiku, Te Rūnanga o Ngāi Tahu and Ngāi Tahu Whānui.
171. In 2011, Te Waihora/Lake Ellesmere was found to have outstanding significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries. Evidence in support of these values was presented by Te Runanga o Ngai Tahu, members of Ngai Tahu with a very long association with the lake, and current managers within the iwi.
172. Significance of water body
173. When determining if a water body has characteristics which are considered to be outstanding for cultural and spiritual purposes (specific to tāngata whenua) or of outstanding significance in accordance with tikanga Māori, decision makers have assessed whether the characteristics are of significance to much larger and more widely representative iwi groups, rather than solely for one iwi/hapū.
174. This requirement is clearly expressed in the WCO report and recommendation for Te Waihora /Lake Ellesmere where the Committee stated:
- “The Act uses the words tikanga Maori and we consider that what is intended is a characteristic of significance to Maori generally, rather than to one iwi or hapū. We have concluded that to qualify for inclusion, the characteristic must be of significance measured on a national basis, not just in relation to Ngai Tahu”.*
175. Further, when considering whether Te Waihora/Lake Ellesmere is outstanding in respect cultural and spiritual values to Māori the Committee found that Te Waihora/Lake Ellesmere did not stand out on a New Zealand wide basis noting:
- “ we could not be satisfied that Te Waihora is of outstanding cultural or spiritual value to Maori at a national level particularly when compared with other parts of the country. All iwi have very strong associations with the land they historically occupied, and the waters of rivers and lakes are very much part of this. Maori affiliations to water are also very strong in many parts of the country; a very good example of this is the absolutely central importance of the Whanganui River to the Whanganui River Maori. But in the case of Te Waihora the evidence did not show that it "stood out on a national basis" for its cultural and spiritual value to Māori”.*
176. This is consistent with the findings made in respect to Te Waikoropupū Springs, Oreti River, and Rangitata River WCO applications, where the water bodies are not only of outstanding significance to the descendants who are mana whenua and are the kaitiaki of the water body, but also to much larger and more widely representative iwi groups.
177. In 2011, Te Waihora /Lake Ellesmere was found to have outstanding significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries. The historical importance of Te Waihora /Lake Ellesmere is connected to its status as a food basket *“renowned for the quality and variety of its fish, bird and other resources”* and is an integral part of Ngāi Tahu history, mahinga kai and customary fisheries; all of which were found to stand out on a New Zealand wide basis.
178. Evidence established that the Te Waihora/Lake Ellesmere has always been of importance historically for Ngāi Tahu, and continues to be so. It is very important for traditional Māori hospitality, customary exchange for other resources, and is still central in Ngāi Tahu’s present life and practices as well as being a central part of their history. Te

Waihora/Lake Ellesmere provides around 10% national quota of eels, historically over 50%, and has its own quota management area.

179. When considering whether Te Waihora/Lake Ellesmere is outstanding in respect of kaitiakitanga, the Committee found that Te Waihora/Lake Ellesmere did not stand out on a New Zealand wide basis in relation to the exercise of kaitiakitanga noting:

*“there is no question that Ngāi Tahu holds kaitiaki status over Te Waihora. However, to be included as a value in a water conservation order, we have to be satisfied that Te Waihora is outstanding in respect of kaitiakitanga, in a national context. Kaitiakitanga is defined in the RMA as “the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources, and includes an ethic of stewardship.” In this sense, Ngāi Tahu holds kaitiaki over many resources. The same principle applies to all other iwi throughout the country”.*

180. In 2002, the Rangitata River was found to have range of characteristics that are of outstanding significance in accordance with tikanga Māori. The Tribunal found the river is outstanding not only to Te Rūnanga o Arowhenua but also to the much larger and more widely representative Te Rūnanga o Ngāi Tahu. The Rangitata River is a taonga, which has always been culturally important to Ngāi Tahu Whānui, particularly as a transport route between Canterbury to the West Coast, but also recognised for tauranga waka, mahinga kai, and wāhi tapu area. The Special Tribunal noted that the spiritual, cultural and historic purposes specific to Ngāi Tahu are covered in their section on tikanga Māori.

181. Evidence established that the Rangitata River as a mahinga kai, remains a cornerstone of Ngāi Tahu culture and identity, which continues to play a vital role in the health and well-being of Ngāi Tahu with plants, medicines, materials, and other food sources, still collected from the river. The mauri of the Rangitata River is intact and sustains healthy ecosystems which underpins this important mahinga kai. The tūpuna of Ngāi Tahu have intimate knowledge of navigation, river routes, tauranga waka and mahinga kai on the Rangitata River, with lists of traditional names for the physical features, settlement places and special food gathering sites within the river system. The key features include the history as seen in place names (settlements & food gathering sites).

182. In 2008, a Tribunal found the Oreti River to have outstanding significance in accordance with tikanga Māori. All four papatipu rūnanga in Murihiku, Te Rūnanga o Ngāi Tahu and Ngāi Tahu Whanu supported the application<sup>9</sup>. The Tribunal finds the mauri of the upper Oreti River to be robust and vibrant, noting the waters of the upper Oreti River are relatively unmodified, with high water quality, supporting several taonga species (both fish and wildlife). There is evidence of past occupation in the form of archaeological sites and remains in the area. The habitat of the Oreti River for long-finned eel was found to strongly contribute to the river’s outstanding values in accordance with tikanga Māori.

183. In 2020, a Special Tribunal found Te Waikoropupū Springs to have outstanding significance in accordance with tikanga Māori. The Tribunal found the outstanding significance of the historical, spiritual and cultural values of the waters to be 'beyond question'.

184. Evidence established that the historical and spiritual significance of Te Waikoropupū Springs is demonstrated through waiata and legends. Culturally, the waters of Te Waikoropupū represent the lifeblood of Papatūānuku and the tears of Ranginui, symbolising the link between past and present. Te Waikoropupū is a source of wai, an essential element of life. Wai is considered to transcend life itself as it sustains the physical and spiritual wellbeing of all things.

185. Te Waikoropupū Springs is relevant to all Māori who have, or have had, connection to these waters. Huriawa is a kaitiaki taniwha, who was called forth to guard Te Waikoropupū, that rests within the limestone caves and underground streams of Te Waikoropupū. Cultural traditions relate to the purity of water. Te Waikoropupū spring water is recognised as wāhi tapu (sacred place) and are called the “water of life” or Wai Ora, the purest form of freshwater. Generations of whānau have used these sacred waters for cleansing and spiritual healing.

186. Treaty of Waitangi

187. Requests were put forward to respective Tribunals considering the WCO applications for Te Waikoropupū Springs and the Rangitata River, that Treaty of Waitangi issues be considered as part of the WCO hearing.

188. In both cases, the Tribunals found that the hearing of an application for a WCO is not the place to consider these issues.

189. When considering Te Waikoropupū Springs WCO application, the Special Tribunal specially noted: *“The Tribunal is not able to make a finding with respect to rohe or manawhenua status i.e. it is beyond our powers to determine that*

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<sup>9</sup> Te Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui, which is the collective name given to the various Māori hāpu and whānau that have always occupied the major and southern part of the South Island, including South Canterbury.

*mana whenua iwi are given equal acknowledgement of their mana whenua rights and kaitiaki status. Whilst we can and should recognise manawhenua rights within a WCO, we cannot apportion relative rights or status as between iwi".*

190. This is consistent with the findings of the Special Tribunal when considering a submission referring to Treaty of Waitangi issues with respect to the Rangitata River. That Tribunal noted: *"After due deliberation the special tribunal believes that the hearing of an application for a water conservation order for the Rangitata River is not the place to consider these issues. The Waitangi Tribunal is the appropriate forum for such a discussion".*

191. Supporting evidence

192. When assessing whether a water body has characteristics which are of outstanding significance in accordance with tikanga Maori, for WCO purposes, decision makers have sought extensive evidence in support of the claimed outstanding features. Evidence specifically referred to in past WCO reports and recommendations when assessing a water body's significance in accordance with tikanga Maori, includes:

- a. Evidence from descendent groups with a long association with the water body, such as whanau, hapū or iwi.
- b. Statutory acknowledgements.
- c. Waitangi Tribunal reports.
- d. Customary usage reports, Treaty Settlement legislation.
- e. Affidavits.
- f. Archaeological site registers.
- g. Deeds of Settlements.
- h. Customary usage reports.

## Recreation

193. New Zealand has numerous freshwater bodies that are used for recreational activities by both New Zealanders and international tourists. The distinguishing feature of a recreational category is where the waters are essential for the experience. While the surrounding landscape may contribute significantly to a recreational experience, it is the water that is the critical factor.
194. This section discusses the outstanding recreational experiences provided by water bodies for salmon and trout fishing, rafting, kayaking and jet boating.

### Recreation: fishing for trout and salmon

195. This section discusses trout and salmon fishing and the key characteristics referred to in WCO reports and recommendations when decision makers have determined if a water body provides an outstanding angling amenity<sup>10</sup>.
196. While, WCOs typically protect trout and salmon fisheries in a recreational and biological sense separately, the two value sets are closely connected given it is the biological features of the habitat and fish population itself which underpin the angling experience.

### Key findings

197. When assessing if a water body provides an outstanding angling amenity, decision makers have assessed a combination of amenity and biological features and then determined, when combined, whether they provide an outstanding recreational experience.
198. Water bodies identified as providing an outstanding angling amenity naturally<sup>11</sup> support an exceptional biological characteristic by way of:
- (a) an abundance of fish, or
  - (b) exceptionally large fish, or
  - (c) high numbers of large fish.
199. These features all form the basis of the different angling experiences which, when combined with a special type of amenity feature(s), creates an outstanding angling experience. For example, a water that supports a high trout biomass will result in a fishing experience known for its 'high catch rate' etc.
200. Once an exceptional biological feature of the water body has been established, decision makers then have gone on to consider the amenity features of the fishery, assessing characteristics such as catch rate, access, scenic beauty and solitude, water clarity, water flows and the types of angling experiences.
201. Given the difficulty surrounding the assessment of amenity features, discussions within WCO reports and recommendations typically referred to factors such as a water body's national or international reputation, its level of non-local usage, and the extent to which it is discussed, or any associated grading or rating, in publications not related to the WCO application, to corroborate any outstanding claims.
202. The Ahuriri River, Buller River, Maitai River, Manganuioteao River, Mohaka River, Motueka River, Oreti River Rangitata River and Rakaia River all have been found by decision makers to provide an outstanding recreational fishery or angling experience. Table 7 sets out the key features specifically referred to by decision makers when concluding the recreational fishing experience is outstanding<sup>12</sup>.

<sup>10</sup> Also referred to 'recreational fishing experience', or 'outstanding recreational fishery' in WCO reports and recommendations.

<sup>11</sup> Self-sustaining fishery i.e. not reliant on restocking from hatcheries.

<sup>12</sup> Note: Not all features of the fishery are identified, despite being present. Only the key features identified by decision makers when making their findings on the 'outstandingness' of the fishery are identified.

Table 7: Key features: outstanding angling amenity

Water body	Biological features		Amenity features		Evidence source	
	Large trout / reasonable numbers of large trout	High trout numbers / high trout biomass	Access	Variety of angling experiences / special angling experience	Reputation / Non-local usage	National Angling Survey Results
<b>Ahuriri River</b>	Large trout.	-	Easy access.	Variety of the angling experiences / High catch rate (special angling experience).	International & national reputation / high non local usage.	Results of the national angling survey - nationally important recreational and scenic river fishery.
<b>Upper Buller River catchment</b>	Large trout.	-	-	Variety of the angling experiences / High catch rate (special angling experience).	International & national reputation.	-
<b>Upper Buller River</b>	Large trout.	High trout numbers.	-	-	-	Results of the national angling survey - nationally important recreational fishery.
<b>Maruia River (Buller catchment)</b>	Large trout.	-	-	High catch rate (special angling experience).	-	Results of the national angling survey - high ratings for both catch rate and size of fish.
<b>Mataura River</b>	-	High trout numbers.	-	Variety of the angling experiences / High catch rate (special angling experience).	International & national reputation.	
<b>Manganuioteao River</b>	-	High trout numbers.	Easy access.	Variety of the angling experiences.	-	Results of the national angling survey - nationally important recreational river fishery (one of twenty five nationally important rivers identified, one of nine in the North Island).
<b>Upper Mohaka River</b>	Large trout.	High trout biomass.	-	High catch rate (special angling experience).	-	Results of the national angling survey - one of twenty five nationally important rivers identified, of these one of five rivers that met at least two of the recreational, scenic or wilderness fishery categories.
<b>Motueka River</b>	-	High trout numbers.	Easy access.	Special angling experience - unusual nature, challenge, seasonal variation.	-	-
<b>Wangapeka River (Motueka catchment)</b>	Trophy sized trout in relevantly abundant numbers.	-	Easy access.	-	International reputation.	-
<b>Upper Oreti River</b>	Large brown trout in high numbers.	-	-	Special angling experience - isolation and scenic values & very high water clarity allowing fish to be spotted and fished to.	International & national reputation.	-
<b>Rangitata River</b>	-	High salmon run numbers.	-	Special angling experience - catching salmon in a large snow fed river & variety of the angling experiences.	National reputation.	-
<b>Rakaia River</b>	-	High salmon run numbers between 20,000 - 30,000.	-	Special angling experience - best salmon fishing amenity in New Zealand /high catch rate.	National reputation / high non-local usage.	Results of the national angling survey - nationally important recreational river fishery.
<b>Rangitikei River</b>	Large trout.	-	-	Variety of the angling experiences (wilderness, scenic and recreational).	International & national reputation / high non local usage.	Results of the national angling survey - the only nationally important river fishery in New Zealand where all three categories of fishery are met (wilderness, scenic and recreational).

## What is not outstanding?

203. The angling amenity or recreational fishery values of the Nevis River, Mohaka River and a number of rivers within the Buller River catchment, were assessed for a WCO status and found by decision makers to not be outstanding in a national context. These discussions demonstrate when the angling amenity provided by a water body does not meet the outstanding threshold. A summary of the key findings is set out below:

- a. In 2010, a Special Tribunal found part of the Nevis River to not be outstanding for recreational fishing, despite the river harbouring large trout and being located in a backcountry setting. The Special Tribunal determined that solely having large fish in a backcountry/headwater fishery is not 'exceptional' because the density of big fish in the Nevis River is around the median nationally, and there is a significant number of headwater and backcountry fisheries in New Zealand. When combined the two features did not stand out.
- b. In 1992, the Planning Tribunal ruled the middle reaches of the Mohaka River were not outstanding as an angling amenity, finding the biomass of the middle reaches to rank around 40th of the 158 rivers, noting that while the trout fishery of the middle reaches is highly valued, it is not outstanding.
- c. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled "*we conclude that the upper Gowan River does not have the necessary combination of abundance of fish and angling amenity to justify a finding that it contains an outstanding recreational fishery.*" This finding was made despite the Planning Tribunal recognising that "*It is clear that on trout numbers alone the upper Gowan River could be said to be outstanding in a national context*". Notwithstanding, the Planning Tribunal found the river's swift flow and dense bankside vegetation made it difficult to access and fish, impacting on the overall outstanding recreational experience.
- d. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled the Mangles River was not an outstanding headwater trout fishery, noting the river was not identified as either a Category A or Category B headwater trout fishery, and while the national angling survey showed the river to be popular for fishing, it was generally not highly regarded for attributes such as access, catch rate, scenic and wilderness qualities.
- e. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled the Tutaki River was not an outstanding headwater trout fishery, despite being identified as a Category A headwater trout fishery, noting trout numbers are moderate when compared to other rivers in the Buller system. The Planning Tribunal found that given there are a large number of Category A headwater fisheries (89 in total), such categorisation on its own did not justify a finding of an outstanding feature.
- f. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled the Owen River was not an outstanding headwater trout fishery, noting the river was identified as a Category B headwater trout fishery and the results of the national angling survey did not show this to be a fishery of national importance.
- g. In 1996, the Planning Tribunal considering the Buller WCO application, ruled there was no evidence to support the Matakaitiki River being identified as an outstanding headwater trout fishery, noting the river was identified as a Category B headwater trout fishery, and the national angling survey classified the river as being a locally important scenic fishery.
- h. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled the Glenroy River was not an outstanding headwater trout fishery, noting the river was identified as a Category B headwater trout fishery and the national angling survey classified the river as being a locally important scenic fishery.
- i. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled Deepdale Creek was not an outstanding headwater trout fishery, despite being identified as a Category A headwater trout fishery, noting Deepdale Creek did not feature in the National Angling Survey.
- j. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled Te Wharau Creek (Stony River) was not an outstanding headwater trout fishery, noting the river was identified as a Category B headwater trout fishery, and despite supporting a moderate population of medium to large sized trout up until recently the access has been limited, and its excellent trout fishing has not been generally well known, and it does not feature in the national angling survey.
- k. In 1996, the Planning Tribunal considering the Buller River WCO application, ruled upper Waitahu River was not an outstanding headwater trout fishery, despite being identified as a Category A headwater trout

fishery, noting there is no evidence to indicate that the upper Waitahu River is significantly different from the other 107 headwater trout fisheries identified in the South Island.

- I. In 1984, the Committee found Lake Coleridge, Lyndon and Heron to not have outstanding angling amenity for trout, despite the lakes appearing on the provisional listing of nationally important New Zealand salmonid lake fisheries. The Committee determined these lakes lacked the comprehensive quantitative base used to assess nationally important river fisheries.

## Discussion

204. When determining if a water body provides an outstanding angling amenity, decision makers have focused on biological features such as trout size, trout numbers or trout biomass, and then amenity features such as access, water quality, water flows, scenic beauty, solitude, catch rate and the type of fishing experience(s).
205. Given the difficulty surrounding the assessment of amenity features; to corroborate outstanding claims, decision makers have also considered:
  - (a) the water body's national or international reputation,
  - (b) testimonies from anglers,
  - (c) its level of non-local usage, and
  - (d) the extent to which it is discussed, or any associated grading or rating, in publications not related to the WCO application.
206. Water bodies identified as providing an outstanding angling amenity, by way of WCO, are self-sustaining fisheries which support exceptional biological and amenity features, which when combined, provide an outstanding recreational fishing experience. The combination of the biological and amenity features vary depending on the type of outstanding angling experience being sought. For example, is the experience related to an opportunity to fish for large trophy trout in a wilderness setting, or an opportunity to fish for high numbers of trout with good access.
207. The discussions contained within these WCO reports and recommendations, in support of these findings, are covered in further detail below under the relevant headings of 'biological features', 'amenity features' and 'independent evidence source' (refer Paragraphs 208 to 288).

## Biological features

208. Those water bodies identified as providing an outstanding angling experience, by way of WCO, are self-sustaining fisheries. These self-sustaining fisheries support an exceptional biological feature by way of an abundance of fish, exceptionally large fish, or high numbers of large fish.
209. WCO reports and recommendations have commonly discussed trout numbers, biomass and size providing information as to what the terms 'large', 'trophy', 'significant' or 'exceptionally high' means when trout size, numbers or biomass are being evaluated.
210. Trout numbers /biomass<sup>13</sup>
211. Trout numbers and biomass are commonly assessed by decision makers when the angling experience under evaluation related to an angler looking to catch large numbers of fish.
212. In 1991, the Motueka River was identified by the Tribunal as providing an outstanding recreational fishery, based on the large numbers of fish and its unusual nature and accessibility. The Tribunal determined the biomass values to be exceptionally high for a non-lake river. The Motueka River is rated as the 7th highest trout biomass from 158 lake and river sites investigated across the country and the highest trout biomass of all river sites.
213. In 1990, the Planning Tribunal found the upper Buller River to support a brown trout fishery of national importance, due to its exceptionally high trout populations and the results of the national angling survey.
214. In 1990 and 1992, the upper Mohaka River was identified as providing an outstanding recreational fishery based on its large trout, high trout biomass and numbers, catch per angler and the results of the national angling survey (see Paragraph 282). Trout numbers in the upper Mohaka River are around 48 per km up to 76.8 per km, with the headwaters ranking 10th highest in New Zealand<sup>14</sup>, the 4th highest in the North Island, and supporting twice as many large fish in its headwaters as the other rivers in the Kaimanawa and Kaweka Ranges.

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<sup>13</sup> The trout biomass of a river is an abundance of fish 'or biomass', which takes into account the size of the fish and the size of the river. This allows comparisons to occur between rivers.

<sup>14</sup> Out of 158 reaches.

215. In 2007, the upper Oreti River was identified as providing an outstanding angling amenity primarily based on the presence of high numbers of large brown trout and the very high water clarity allowing individual fish to be 'spotted' and fished to. The relative isolation, scenic values and lack of modification of the upper catchment is also discussed in the report and recommendation. Trout numbers in the Oreti River are around 30 per kilometre, which places the upper Oreti River in the top 10% of non-spring or lake-fed rivers nationally, at the top of the headwater rivers studied in 1989–92, and 17<sup>th</sup> out of 158 river reaches studied nationally by NIWA.
216. In 1989, the Manganuioteao River was found to provide an outstanding recreational fishery, based on trout numbers, access and the results of the national angling survey. Specific note was given to the scenery and solitude, the high water quality and the varied high quality angling available.
217. In 1992, the trout biomass of the Mohaka River (middle reaches) was assessed and found not to be outstanding. In this case, the Planning Tribunal specifically overturned the previous decision made by the Tribunal on the Mohaka River, which in 1990 had identified the middle reaches of the Mohaka River to be outstanding as an angling amenity. In the decision, the Planning Tribunal noted that the trout biomass of the middle reaches rank around 40<sup>th</sup> of the 158 river reaches, finding that while the trout fishery of the middle reaches is highly valued, it is not outstanding.
218. In 1992, the Planning Tribunal specifically overturned previous findings that the middle reaches of the Mohaka River provided an outstanding angling amenity. The Planning Tribunal found that while the trout fishery of the middle reaches is highly valued, it is not outstanding, noting its ranking of around 40<sup>th</sup> of the 158 river reaches surveyed across New Zealand.
219. Numbers of large and trophy trout
220. Trout size, and associated numbers of large or trophy trout, are commonly assessed when the fishing experience being evaluated relates to an angler looking to catch large individual fish.
221. What is considered to be a high number of large or trophy trout has been discussed in the WCO reports and recommendations for the Oreti, Motueka, Ahuriri and Nevis Rivers.
222. In 2007, the upper Oreti River was identified as providing an outstanding angling amenity primarily based on the presence of high numbers of large brown trout and the very high water clarity allowing individual fish to be 'spotted' and fished to. The average size of brown trout in the upper Oreti is 2.7 kg with trout numbers being 30 per km, which the Special Tribunal noted to be exceptional.
223. The Motueka and Wangapeka Rivers were identified as providing an outstanding brown trout fishery, based on the large size of trout, high trout numbers and significant biomass. Trout size on average is 0.75 to 1 kg in the Motueka River, and between 2 to 2.5 kg in the Wangapeka River, with many trout exceeding 3.5 kg and trophy fish over 4.5 kg distributed widely throughout the upper river.
224. The Ahuriri River was identified as providing an outstanding angling amenity based on, the presence of large trophy fish together with a variety of angling experiences, easy access, catch rate, international reputation, non-local usage and the results of the national river angling survey. The Ahuriri River supports brown and rainbow trout populations, which reach a larger trophy size up to 4.5 kg.
225. In 2004, the Environment Court found the Wangapeka River (Motueka catchment) to be outstanding as a recreational fishery. Discussions within the report and recommendation refer to the Wangapeka River's relatively abundant trophy sized trout of up to 4.5 kg.
226. Conversely, when assessing the Nevis River (middle flats) in 2010, the Special Tribunal determined that while large trout of at least 60 cm were present in the river, due to its relatively low density of medium to large trout, it fell short of crossing the outstanding threshold, with the Tribunal having noted:
- "It is certainly true that the Nevis population seems to harbour a disproportionately large number of 60cms plus fish. But then so do a number of other fisheries - even in the Otago/Southland area".*
227. With respect to the Buller, Maruia and Mohaka Rivers, while the various tribunals cite the size and number of trout as a key characteristic of its outstanding recreational experience, the associated reports and recommendations do not state sizes or numbers. Notwithstanding, this re-confirms the use of these characteristics by decision makers when assessing the recreational fishing experience a water body provides. Specifically the:
- a. Upper Buller River system was identified as an outstanding trout fishery based on the impressive size of the trout, the high catch rate, the variety of the angling experiences available and the fisheries international and national reputation.

- b. Maruia River, considered as part of the Buller River WCO application, was identified as containing an outstanding trout fishery based on its size of fish and the catch rate, and the results of the national angling survey.
- c. Upper Mohaka River was found to support an outstanding recreational fishery based on the large size of trout, trout numbers and biomass, catch per angler and the results of the national angling survey.
- d. Rangitikei River was found to provide a high quality angling experience based on the exceptionally large trout in its headwaters.

228. Salmon run numbers

229. The Rangitata and Rakaia Rivers are both recognised as providing an outstanding salmon fishing experience. The salmon run numbers form the basis of an outstanding angling amenity which make these rivers important for salmon fishing.

230. The Rakaia River has the largest salmon run in New Zealand, with average numbers of adult salmon migrating up the river each year being estimated at between 20,000 and 30,000 fish. The Rakaia River was found to provide an outstanding angling amenity based on its salmon run numbers, high catch rate, high non-local usage and its ratings in the national angling survey.

231. The Rangitata River has a large salmon run and good access.

232. Self-sustaining

233. Water bodies identified as providing an outstanding recreational fishing experience are wild fisheries that are self-sustaining through natural replacement rather than through regular restocking from hatcheries.

234. Discussions contained within several WCO reports and recommendations indicate that natural wild stock replacement is believed to lead to superior fish quality and improved angling. Further noting that internationally, this is recognised as one of the key features of the national and international reputation of fisheries within New Zealand.

**Amenity features**

235. The type of angling experience(s) is directly connected with the different types of amenity features offered by a water body. A water body may provide a variety of angling experiences that suit both novice and experts, or a particularly specialised angling experience such as fishing for trophy trout in a remote and scenic area, or fishing for large numbers of trout in a highly natural area, with easy access.

236. Water bodies identified as providing an outstanding angling experience, for WCO purposes, have a special amenity, which when combined with one of the exceptional biological feature described above, provide an outstanding recreational fishing experience.

237. Variety of angling experiences /special type of experience

238. A variety of angling experiences refers to opportunities in the same catchment, or water body, for lake fishing, wilderness fishing, trophy headwater fishing, big river fishing and small stream fishing. This also corresponds with a variety of fishing techniques such as bait fishing, fly fishing and spinning and a range of challenges which suit the novice to the expert.

239. Water bodies identified as providing an outstanding angling amenity, for WCO purposes, provide a variety of angling experiences and/or a particularly specialised angling experience such as fishing for trophy trout in a remote and scenic area.

240. The reports and recommendations for the Ahuriri River, upper Buller River catchment, Manganuioteao River, Rangitikei River and Mataura River, specifically identify the 'variety of angling experiences' as one of the key factors that contributes to the outstanding fishing experience provided by these water bodies.

241. The reports and recommendations for the Maruia River, Buller River catchment, Mataura River, Motueka River, upper Oreti River, Rangitata River and Rakaia River, specifically referred to a specialised angling experience provided by these water bodies.

242. The reports and recommendations for the upper Buller River and Wangapeka River specifically referred to the 'results of the angling survey' which identified these water bodies as being nationally important rivers, for wilderness, scenic or recreational categories, which represents the specialised angling experience they each provide.

243. Scenic beauty and solitude

244. The scenic, solitude and natural characteristics of a water body, and the feelings it provokes for anglers, are frequently discussed by decision makers, particularly when the angling experiences being assessed are particularly specialised such as, fishing for trophy trout in a remote and scenic area.

245. When assessing scenic and solitude characteristics, decision makers have relied on a number of information sources, such as testimonies of anglers, expert evidence, the areas grading in past studies such as: Potential Water Bodies of National Importance, Inventory of Wild and Scenic Rivers and the National Angling Survey.

246. Discussions in past WCO reports and recommendations have noted that while headwater and backcountry/wilderness fisheries are highly valued throughout New Zealand for the angling experience they provide, particularly for the opportunity to fish in remote and natural areas, simply falling in this category does not make the angling amenity outstanding for WCO purposes. In 2010, when discussing the angling amenity of the Nevis River (middle flats) the Special Tribunal noted:

*"As to the back country or headwater fishery a number of other fisheries, again in the lower South Island, were mentioned in evidence such as the Oreti. Indeed it was acknowledged that nationally there are approximately 160 headwater fisheries and 'a couple of hundred' back country ones. We tested a number of the witnesses giving evidence relevant to this issue and it was significant to us that none were prepared to go as far as to claim this fishery was unique in New Zealand or even close to that".*

247. Water clarity and flows

248. Water clarity and flows can contribute significantly to an angling experience, with the ability to spot and fish to a particular trout being highly valued by anglers. Rivers with fast flows and/or poor water quality can present a significant challenge for angling and detract from the fishing experience.

249. This finding is supported by the Oreti River WCO report and recommendation which notes the presence of high numbers of large brown trout, together with the very clear water of the Oreti River which allows anglers to spot and fish to a particular trout, as a key characteristics of the outstanding angling amenity of the upper Oreti River.

250. The desired water clarity when fishing for salmon is different from trout, with slightly cloudy water and moderate flows being preferred by anglers. This is supported by discussions within the Rangitata River WCO report and recommendation, which notes that overall moderate flows and somewhat cloudy water are most favoured when fishing for salmon and *"being able to see the toe of a wader in knee-deep water"* is a good indicator of favourable salmon fishing conditions.

251. Catch rate

252. The trout catch rate is closely related to the trout biomass or trout numbers supported by the water body. A 'high catch rate' is a specialised angling experience discussed in a number of WCO reports and recommendations.

253. The catch rate is one of a number of specialised angling experiences. However, a high catch rate is not a critical factor for a water body being deemed outstanding, being less important for those water bodies which contain salmon or trophy sized trout, with other characteristics such as the scenic quality and the challenge of the fishing experience taking precedence.

254. This finding is supported by the Rangitata River report and recommendation. Here the Special Tribunal assessing the angling amenity of the Rangitata River noted:

*"Catching salmon in a large snow-fed river is undoubtedly a significant experience for those who achieve it. Even the many salmon anglers who don't catch fish very often (up to 60% of anglers may not catch a salmon in any one year) obviously find aspects of the experience sufficiently special to keep trying".*

255. This is further demonstrated in the Ahuriri River and Maitai River WCO reports and recommendations. The Ahuriri River contains large fish, with a 'reasonable' catch rate and is known for its 'big fish', while the Maitai River contains large numbers of fish, and is known for its high catch rate for trout.

256. When discussing salmon, the Planning Tribunal assessing the Rangitata River WCO application stated the number of salmon caught is of lessor importance than the other characteristics of the fishing experience, while the Planning Tribunal considering the Rakaia WCO application described the 'high catch rate' as adding to the angling experience.

257. When determining a catch rate decision makers have relied on evidence from sources such as testimonies from anglers, external publications or the national angling survey. The following discussions contained in the WCO reports and recommendations for the Maitai, Mohaka and Rakaia Rivers indicated that drift diving provides a good indication of the likely catch rates:

- a. When discussing catch rates associated with the Mataura River the Planning Tribunal stated *“the high catch rate provides evidence that the river system supports a significantly large fish population”*. It is assumed the reverse would apply.
- b. When discussing catch rates associated with the Mohaka River, the Tribunal concluded the upper Mohaka River has a significant biomass of trout, with the catch rate per angler exceeding that of other rivers in the region, and twice as many large fish as other North Island headwater fisheries.
- c. When discussing catch rates associated with the Rakaia River the Committee noted *“a high catch rate is reported for the Rakaia and this is consistent with the large salmon run”*.

#### 258. Access

259. Access is a critical feature of an outstanding angling amenity, given that without access the fishing activity cannot take place. The Ahuriri, Manganuioteao, Motueka and Wangapeka rivers all respectively provide an outstanding recreational fishing experience, with access being specifically identified by decision makers as one of the key factors of the angling amenity.
260. While 'ease of access' is commonly discussed in WCO reports and recommendations, it is not a critical feature of the angling amenity and depends on the type of fishing experience being sought. In cases where the type of fishing experience relates to one very special aspect (such as large trophy fish), in an isolated wilderness location the lack of easy access, in some instances, has been found to enhance the challenge of the fishing experience.
261. In 1996, the Planning Tribunal considering the Buller River WCO application found the upper Gowan River not to provide an outstanding angling amenity, noting that despite the river supporting trout numbers which alone could be said to be outstanding, the rivers swift flow and dense bankside vegetation makes the upper Gowan River difficult to access and fish, impacting on the overall fishing experience.

#### **Independent sources of evidence**

262. Although not 'characteristics' of a water body itself, when drawing conclusions around a water bodies outstanding nature, decision makers have also considered:
- (a) a water body's national or international reputation,
  - (b) testimonies from anglers,
  - (c) its level of non-local usage, and
  - (d) the extent to which it is discussed, or any associated grading or rating, in publications not related to the WCO application.
263. These types of independent evidential sources are consistently discussed by decision makers when they have assessed the angling experience provided by the water body.
264. Reputation
265. The national and international reputation of a water body is commonly discussed by decision makers when drawing conclusions around a water bodies outstanding nature. A water body's reputation is connected to its non-local usage (see Paragraphs 270 to 278).
266. Water bodies identified as providing an outstanding recreational fishing experience have an associated national and international reputation. In particular:
- a. The upper Oreti has a national and international reputation as a challenge to skilled anglers, providing very large fish that can be spotted and fished to.
  - b. The Ahuriri River *“has an international reputation as a trout fishery, particularly known for its big fish”*.
  - c. The Wangapeka and Motueka Rivers have an international reputation as exceptional wild brown trout fisheries which sets them apart on a world scale.
  - d. The Mohaka River is a world class tourist fishery with a national and international reputation.
  - e. The Rangitikei River Headwaters attracts anglers from many parts of New Zealand and overseas.
  - f. The Mataura River has a 100 year reputation, both within New Zealand and overseas, as a high quality brown trout fishing river.
  - g. The Rakaia River is fished by anglers from throughout New Zealand and overseas.
267. Decision makers have established a water body's reputation for angling in a variety of ways including through:

- a. Anecdotal evidence such as testimonies from anglers who have fished both in New Zealand and overseas.
  - b. Comments about the outstanding nature of the fishery in publications that were prepared independently of the WCO application.
  - c. A long term reputation of the outstanding nature of the fishery, over a number of years, in various publications.
  - d. Well-known text or guide books and past government documents recording water bodies of national significance.
268. While the lack of reputation does not dismiss a water body from being identified as outstanding, the Tribunal considering the Nevis River indicated it was a significant consideration noting: *"Whilst we do not regard mention in the literature as necessarily determinative, we nonetheless thought it significant that the Nevis is not featured or particularly identified as a classic or iconic fishery in any of the well-known fishing text or guide books. Further, it is not mentioned in the Ministry for the Environment documents recording water bodies of national significance in this regard"*.
269. When reconsidering these findings, the Environment Court supported this conclusion, further noting that while the National River Angling Surveys identify the Nevis River as an excellent example of a back country fishery, none of the expert witnesses suggested that the Nevis River fishery was of national significance.
270. Usage
271. When directly discussing the number of anglers who use a water body, decision makers have been consistently clear that high local usage is not enough to determine that the water body provides an outstanding fishing experience, given there are a number of factors which can influence why an angler decides to fish a particular water body. For example, the river or lake might be close to a large population centre.
272. This is supported by the Special Tribunal when it considered the angling amenity of the Rangitata River. In that case, the Tribunal noted *"that numbers of users, on their own, are insufficient evidence that the amenity is outstanding"*.
273. Conversely, the water bodies with low usage can still provide an outstanding angling amenity, with the Special Tribunal considering the value of the Rangitata River for angling having noted *"Although the numbers who fish in the upper river are only a small percentage, the experience is still outstanding, although different to being amongst the crowds at the mouth"*.
274. Notwithstanding, when considering non-local usage, discussions contained within WCO reports and recommendations have indicated the higher the number of people who fish on a water body from other parts of New Zealand, or overseas, the more significant the water body is for angling. This finding is supported by the Special Tribunal when considering the angling amenity of the Rangitata River who noted *"the high proportion of non-local users does give an indication of the 'specialness' of the fishing"*.
275. The report and recommendation for the Rangitata River records that around 35% of those fishing the Rangitata River travelled from overseas or other parts of New Zealand. This is significantly above the Maitai River where 20% of anglers came from other parts of New Zealand and overseas.
276. The finding is also consistent with discussions in the Rangitikei River WCO report and recommendation where the recreational fishing values of the Rangitikei River are found to be outstanding. The Rangitikei River supports exceptionally large trout in its headwaters, which attracts anglers from all over New Zealand and overseas.
277. This is supported by the decision by the Committee on the Rakaia River who, in combination with a number of factors, noted that the Rakaia River is the preferred and most fished river for salmon, and is fished by anglers from throughout New Zealand and overseas.
278. As discussed in Paragraph 265, high non-local usage is related to an associated national and international reputation of a water body for angling, where there will likely be a proportionally high 'non local' use of those water bodies with an associated national and international reputation for angling.
279. Independent publications
280. Decision makers have required extensive evidence to be provided before being satisfied that a water body provides an outstanding angling experience.
281. A water body's rating in publications such as National Angling Survey, NIWA Headwater Fisheries of New Zealand, or in a List of Wild and Scenic Waters is commonly discussed in a number of WCO reports and recommendations in support of, or opposition to, claimed outstanding amenity features which cannot be easily compared and quantified. These publications are summarised as follows:

- (a) **National Angling Survey:** A nationally comparable survey undertaken on a regular basis which assesses the relative importance of New Zealand rivers to anglers. The survey uses criteria to identify nationally important wilderness, scenic and recreational river fisheries.
- (b) **Headwater trout fisheries of New Zealand (1994):** Identifies a list of Category A headwater trout fisheries (those that sustain good fishing throughout the fishing season) and Category B headwater trout fisheries (those that fish well only early in the fishing season). There are 89 Category A headwater trout fisheries in New Zealand.
- (c) **National Inventory of Wild and Scenic Rivers (1984):** An inventory of rivers and lakes across New Zealand which warrant protection, ranked into three groups, with Group 1 containing the very best example of rivers or lakes deserving protection.

282. In 1992, when considering the upper Mohaka River, the Tribunal specifically identified the results of the national angling survey, the large trout biomass and catch per angler as being a key characteristics of the outstanding trout fishery. Of the 750 rivers surveyed, the Mohaka was one of five nationally important fisheries that met two or three recreational, scenic or wilderness fishery categories.

283. In 1986, when finding the Rangitikei River to provide an outstanding fishing experience, the Committee noted that the Rangitikei River is the only nationally important river fishery in New Zealand where all three categories of fishery (wilderness, scenic and recreational) have been identified in the National Angling Survey.

284. The Tribunal considering the Manganuioteao River referred to it being identified as one of nine nationally important angling rivers in the North Island out of 800 rivers surveyed. A total of twenty five rivers qualified as being of national importance.

285. When considering the Rakaia River in 1984, the Committee noted that the Rakaia River satisfies all tests for a nationally important recreational river fishery, gaining a top importance, grade, with high local and non-usage in the national angling survey.

286. In 2010, the Tribunal considering the Nevis River, stated that it is *“significant that the Nevis is not featured or particularly identified as a classic or iconic fishery in any of the well-known fishing text or guide books. Further, it is not mentioned in the Ministry for the Environment documents recording water bodies of national significance in this regard”*.

287. Notwithstanding, a high rating in independently prepared publications does not automatically equate to an outstanding angling amenity, other evidence is required by decision makers in support of the publications findings to demonstrate the fishing experience does stand out. Conversely, a high rating in the national angling survey, or similar, is not a critical factor for a water body being identified as outstanding.

288. This finding is consistent with the Special Tribunal's findings on the Buller River WCO application. In that case, the Maruia River was found to provide an outstanding trout fishery based on its catch rate and large size of trout, despite being identified as a regionally important scenic trout fishery.

### Recreation: boating (jet boating, rafting, kayaking<sup>15</sup>)

289. This section discusses the key features referred to in WCO reports and recommendations when decision makers have determined if a water body is outstanding for the rafting, jet boating or kayaking experience it provides.

290. At least seven rivers have been assessed for WCO purposes in respect to the rafting, jet boating, and kayaking experiences they provide.

### Key Findings

291. When assessing if a water body provides an outstanding rafting, jet boating or kayaking amenity, decision makers have considered a number of features and then determined when combined, whether they provide an outstanding recreational experience.

292. In assessing the rafting, jet boating or kayaking experience, decision makers have firstly established whether the water body provides exceptional amenity by way of a very special high quality experience, or a variety of high quality experiences, which are present in few other water bodies across New Zealand. The wilderness and/or scenic beauty of an area regularly forms part of these special experiences.

<sup>15</sup> For the purposes of this section, kayaking includes canoeing.

293. Once this has been established, decision makers have then gone on to consider whether the water body provides a reliable and predicable outstanding rafting, jet boating or kayaking experience, for most of the year. Decision makers have not identified any water bodies as providing outstanding amenity where the experience is only available under high flows, during dam water releases or when low flow prevents the activity from taking place for significant portions of the year.
294. Given the difficulty surrounding the assessment of amenity features, discussions within WCO reports and recommendations have typically referred to the water body's national or international reputation and its level of non-local usage to corroborate any outstanding claims.
295. The Motu River, Kawarau River, Shotover River, Nevis River, Rangitata River, Buller River, Mohaka River and Rakaia River, or parts thereof, have all been found by decision makers to provide an outstanding recreational rafting, jet boating or kayaking experience. Table 8 sets out the key features specifically referred to by decision makers when they have concluded a rafting, jet boating or kayaking experience is outstanding<sup>16</sup>.

**Table 8: Key features: outstanding rafting, kayaking, canoeing, jet boating experience**

Water body	Specialised or variety of high quality experience	Reliability/ predictability of high quality experience (Flow reliability - experience is always present in the under its natural flow regime. Not reliant on high low flows or dams)	National or international significance / non-local usage (feature attracts interest from outside the region and country)
Motu River (rafting and canoeing)	Specialised experience in a wilderness area.	Utilised year round for rafting and is not subject to low flows.	Non local usage.
Part of Buller River (rafting and canoeing)	Variety of rafting and canoeing experiences / specialised experience.	Reliable and consistent flows. High and steady flows.	National and international significance / high participation rates.
Kawarau, Shotover, Nevis Rivers, or parts thereof (kayaking, jet boating, rafting)	Variety of experiences / specialised technical experience.	Quality and powerful rapids under normal flows.	National and international significance / high participation rates.
Upper Mohaka River and Mokonui Gorge (canoeing and rafting)	Variety of experiences/ specialised experience.	Reliable experience year round. Not subject to low flows when other rivers are.	Non local usage.
Rangitata River (kayaking, rafting)	Variety of kayaking experiences / and specialised experience.	Reliable/predictable experience (assessed through disappointment factor).	Non-local usage.
Upper Rangitata River (jet boating)	Variety of jet boating experiences.	Reliable/predictable experience (assessed through disappointment factor).	Non-local usage.

### What is not outstanding?

296. The lower Rangitata River, Mangles, Matiri and Matakitaki Rivers (Buller catchment) and the upper Shotover River (Kawarau catchment), were assessed by decision makers for an outstanding status and found not to be outstanding in a national context for the rafting, jet boating or kayaking experience provided. These discussions demonstrate when a rafting, jet boating or kayaking experience does not meet the outstanding threshold. Key findings from reports of decisions makers are summarised below:

- a. In 2002, the lower Rangitata River was found not to be outstanding for jet boating values, despite Jet Boating NZ advising the gorge was highly valued as an 'ultimate challenge' to white water boaters. In this case, the Special Tribunal used the disappointment factor (reliability and predictability of the experience) and non-local usage to assess the jet boating features provided by this section of river. The flows and clarity required to jet boat the lower Rangitata River are rarely available, with the gorge seldomly challenged by jet boats.
- b. In 1996, the Planning Tribunal ruled the Mangles River did not provide an outstanding canoeing feature, overturning a previous recommendation by the Special Tribunal. In that case, the Planning Tribunal recognised that while both canoeing features are regionally important, neither feature highly enough in the New Zealand rankings to justify them being classed as outstanding. Paddling on the Mangles River is

<sup>16</sup> Note: Not all features of the water body are identified, despite being present. Only the key features which result in the outstanding experience as identified by decision makers, and set out in the associated WCO reports and recommendations, are referred to in this section.

dependent on adequate water flows and on occasions, it may not be able to be paddled over the entire summer period when most people visit the region.

- c. In 1996, the Planning Tribunal ruled the Matakaitaki River did not provide an outstanding canoeing or rafting features, overturning a previous recommendation by the Special Tribunal, despite the Matakaitaki River being a scenic river, with Grade 2 and 3 rapids which provide good white water for beginner and experienced kayakers, and an intense section for rafters, with high usage.
- d. In 1996, the Planning Tribunal concluded the Matiri River (Buller catchment) did not stand out in a national context for its canoeing feature. Despite being highly valued, the Matiri River only provides an outstanding canoeing feature during high flows, which is similar to other rivers in New Zealand. Further, the 1991 River Use Survey did not identify the Matiri River as standing out in a national context.
- e. In 1996, the Planning Tribunal concluded the upper Shotover River (Kawarau catchment) did not have an outstanding kayaking amenity. The upper Shotover River provides Grade 2 water, and while its location near other water bodies that have outstanding canoeing features is important, the 1991 River Use Survey did not clearly show the upper Shotover River as standing out in a national context. Notwithstanding, the Planning Tribunal acknowledged that the upper Shotover River makes a significant contribution to the outstanding kayaking characteristics in the lower river.

## Discussion

297. When determining if a water body provides an outstanding rafting, jet boating or kayaking amenity, decision makers firstly establish whether the water body provides a specialised or variety of high quality experiences, and the extent to which these experiences are available in other water bodies across New Zealand.
298. Decision makers then consider whether the water body provides a reliable or predictable experience under natural flow conditions and the degree to which this occurs all year round. In particular, aspects of the flow regime such as low flows, damming activities, damming water releases or other occurrences, which may affect the ability of the river to regularly provide for the experience are considered in the assessment.
299. Given the difficulty surrounding the assessment of amenity features, decision makers have then looked for a water body's national or international reputation and its level of non-local usage to corroborate any outstanding claims.
300. The discussions contained within WCO reports and recommendations in support of these findings are discussed further under the relevant headings of 'amenity features', 'reputation and non-local usage' and 'evidence sources' in Paragraphs 301 to 337.

## Amenity features

301. Water bodies identified as providing an outstanding rafting, jet boating or kayaking amenity, for WCO purposes, deliver a specialised, or variety of high quality experiences, found in few other water bodies across New Zealand.
302. These types of high quality rafting, jet boating or kayaking experiences are underpinned by the physical and amenity features of the water body and surrounding area, such as access, surrounding landscape (i.e. scenic beauty and wilderness) river flows, rapids and river formations, all of which form an integral part of the high quality experience.
303. Further discussion follows below on the key features referred to by decision makers regarding amenity for specialised experiences, or varieties of high quality experiences.
304. Variety of high quality experiences /specialised type of experience
305. A variety of high quality rafting, jet boating or kayaking experiences refers to opportunities provided by the water body that caters for a range of interests and skill levels. These experiences have variable accessibility, and can include multi or single day trips, in various landscape settings, with different river flows and rapid intensity.
306. A specialised high quality rafting, jet boating or kayaking experience refers to an opportunity provided by the water body that caters for a particular group, such as a technical kayaking experience in a wilderness setting.
307. Water bodies identified as providing an outstanding rafting, jet boating or kayaking experience, for WCO purposes, provide either a variety of high quality experiences or possess a very special feature that enables a particularly specialised high quality experience.
308. The key features of the specialised or variety of high quality experiences, discussed in WCO reports and recommendations for each of the water bodies in Table 8, are set out in Paragraphs 309 and 310, respectively.

309. Discussions within WCO reports and recommendations have identified the 'variety of experiences' provided by the water body as one of the key factors which contribute to an identified outstanding rafting, jet boating or kayaking amenity. The variety of experiences are of high quality and shared by only a few other rivers in New Zealand:

- a. The Rangitata River provides a variety of kayaking experiences, in wilderness and scenic settings that cater for both experts, beginners and multisport kayakers, with good access. The gorge itself is more specialised, offering a highly prized 'big rapid' kayaking experience, which is a supreme technical challenge to experienced boaters, and present in few other water bodies. In 2002, the Special Tribunal found the Rangitata River (including the gorge), to have outstanding kayaking values based on the river's ability to reliably and consistently provide for these high quality experiences, and the associated high non-local interest.
- b. The upper Rangitata River provides a variety of jet boating experiences, suitable for all skills and experiences, on the most extensive and natural area of braided water in New Zealand, in a very scenic setting. In 2002, the Special Tribunal found the upper Rangitata River to have outstanding jet boating values based on the upper river's ability to reliably provide for this high quality jet boating experience, and the associated high non-local interest.
- c. The Buller River offers a more varied rafting experience than other rivers in New Zealand. The scenery is spectacular, there is good road access, and participation rates for this activity are high. The river provides safe and exciting rapids between Grade 2 and Grade 4, some of which form large 'vee formations'. The Ariki Falls which are the highest volume waterfalls rafted in New Zealand and *"a truly awe inspiring experience for rafters"*. The river has reliable and consistent flows, and is also raftable in high flows providing some of the safest and most exciting rafting available, which is of national and international significance. In 1996 the Planning Tribunal found part of the Buller River main stem to contain an outstanding rafting feature, with the Gowan River identified as providing a significant contribution to the overall rafting amenity.
- d. The Kawarau River and its tributaries (Shotover River and Nevis River), form a central element of that part of the Kawarau catchment which has a national and international reputation, and high non-local participation rates for rafting, jet boating and kayaking activities. Between them, the rivers provide a variety of high quality jet boating, rafting and kayaking experiences, and a number of specialised experiences. The Nevis River is a premier river that provides technical and demanding canoeing experience, while the Shotover River is a small volume river which provides a range of experiences for paddlers of all abilities. The Kawarau River is the only river in the country that provides high quality and powerful rapids which are comparable to major international whitewater rivers, under normal flows. In its concluding statement, the Special Tribunal noted *"the Kawarau River and its tributaries had so many grading at 5 and 6 was considered to be of international significance"*. A number of commercial jet boat, rafting and kayaking enterprises operate in the area. Notably, in 1991 approximately 179,000 visitors took part in rafting and jet boating activities on the lower Shotover River, which is well in excess of any other river in the country.
- e. The upper Mohaka River provides a variety of canoeing experiences, in the form of single or multi-day wilderness trips with increasing skill demands. The Mokonui Gorge provides a demanding and exciting canoeing experience for elite canoeists, with some of the best advance canoeing waters found only in a few other rivers in New Zealand. Canoeists travel from other parts of New Zealand to canoe the river. In 1992, the Planning Tribunal found the upper Mohaka River to provide an outstanding recreational value for canoeing, based on the reliability of the canoeing experience, the variety of canoeing experiences and the specialised canoeing experience provided by the Mokonui Gorge.
- f. The upper Mohaka River provides multi day rafting trips which run through very scenic and wilderness settings. The river has high non-local usage, with a number of commercial raft operators in the area. This section of river has the full range of rapids (Grades 1 to 5), which increase in difficulty along the river allowing beginner rafters to gain experience before attempting more advanced rapids. In 1992, the Planning Tribunal found the upper Mohaka River to provide an outstanding rafting experience, based on the reliability of the rafting experience and the variety of rafting experiences provided by the river.

310. Discussions within WCO reports and recommendations have identified the 'specialised' jet boating or kayaking recreational experience as one of the key factors which contribute to an identified outstanding amenity. These experiences are of high quality and shared by few other rivers in New Zealand:

- a. The upper Rangitata River and Gorge provide an ideal sequence of features for rafting that have high levels of enjoyment and relatively low risk, in wilderness and scenic settings. The rafting section starts on slow open water, becoming progressively more difficult in the gorge, which provides the only readily accessible high volume technical rafting in New Zealand. In 2002, the Special Tribunal found the Rangitata Gorge to

have outstanding rafting values based on the river's ability to reliably and consistently provide for this high quality rafting experience and the associated high non-local interest.

- b. The Buller River is highly scenic with Grades 3, 4 and 5 rapids, some of which are likened to those in the Colorado River in the Grand Canyon, and are used as a venue for both national and international canoeing events, with the O'Sullivan's Rapid in particular regarded as a premier site in New Zealand. In 1996, the Planning Tribunal found part of the Buller River to contain an outstanding canoeing feature based on these factors, plus the associated national importance rating in the 1991 River Use Survey, the high and steady flows and the formations in the river.
- c. The Motu River provides a combination of features, in the form of sustained Grade 3 white water (which requires average canoe skills) through a large wilderness area, which can be utilised year round, found in few other rivers in New Zealand. It attracts a number of visitors from outside of the area. The Committee concluded the middle reaches of the Motu River provide an outstanding amenity for white water recreation, with the Planning Tribunal later adding part of the lower reaches of the Motu River via appeal proceedings.
- d. The lower Rakaia River provides an opportunity for jet boating on a large snow fed braided river, which is relatively close to its natural state. Jet boating on the river is associated with fishing, as part of commercial operations or in its own right as a competitive sport. It is the most significant recreational activity after salmon angling. In 1984, the Committee did not find the Rakaia River to contain outstanding jet boating amenity, but did find the Waimakariri to be more valuable for this sport. Notwithstanding, in 1985 the Planning Tribunal overturned this decision, finding the lower Rakaia River to provide an outstanding jet boating amenity, specifically noting the lower Rakaia River provides the second best jet boating river in New Zealand. Further noting, this is a recreational activity for which few rivers are entirely suitable, and for which braided rivers are undoubtedly the best.

#### 311. Reliability and predictability

312. Water bodies identified as providing an outstanding rafting, jet boating or kayaking experience, provide a reliable and predictable experience year round. To date, no water bodies have been identified as providing an outstanding amenity where the experience is only available intermittently such as, during high flows, during dam releases or where the experience cannot be carried out for significant portions of the year due to low flows.
313. The flow characteristics of a water body determine whether the experience is reliable and predictable, which subsequently underpins the outstanding rafting, jet boating or kayaking amenity. When assessing this feature, decision makers consider particular aspects of the flow regime such as, low flows, damming activities, damming water releases or other occurrences which may affect the ability of the river to regularly and predictably provide for the outstanding experience.
314. This finding is supported by the Motu River WCO report and recommendation, where the Committee concluded the Motu River is outstanding for rafting, having specifically noted "*...the Motu River has sustained Grade 3 white water rafting, a feature shared by only a few other north island rivers, it can be utilised year round for rafting and is not subject to low flows*".
315. That finding is consistent with the Planning Tribunal considering the Buller WCO application who concluded the Matiri River does not stand out in a national context for its canoeing feature. The Matiri River is recognised as being highly valued, however the outstanding canoeing feature is only present during high flows, which is similar to other rivers in New Zealand, and does not provide a reliable or predictable canoeing experience.
316. This finding is further supported by the Special Tribunal who found the upper Mohaka River to provide an outstanding recreational value for canoeing and rafting, based on the variety of experiences and their associated reliability. That Special Tribunal noted the river is available for canoeing and rafting when others are not due to low flows.
317. Similarly, when discussing the Kawarau River, the Tribunal stated that "*....no other river approached the Kawarau River in terms of quality and power of the rapids of the Kawarau in normal flows*".
318. In 2002, the Special Tribunal found the length of the Rangitata River (including the gorge) to have outstanding kayaking and rafting values, and solely the upper Rangitata River to have outstanding jet boating values, based on high non-local interest, and the river's ability year round to reliably and consistently provide these high quality experiences under its natural flow regime. The Special Tribunal assessed these features using the disappointment factor method<sup>17</sup>.

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<sup>17</sup> The 2002 WCO report and recommendation for the Rangitata River, when evaluating recreational significance, states "*An approach to nationally significant could be based on the "disappointment" factor. A well-informed recreational user to an "outstanding" waterway is very rarely*

319. Notably, the Special Tribunal determined the lower Rangitata River and Gorge were not outstanding for jet boating values, based on their disappointment factor assessment and interest in the features from outside of the region. The Gorge (while high valued by Jet Boating New Zealand) is technical and rarely challenged by jet boats, with the lower section seldomly used due to the flows and clarity needed for jet boating being rarely available.
320. In 1996, the Planning Tribunal found part of the Buller River to contain an outstanding canoeing feature, based on the special canoeing features of the water body, the associated national importance rating in the 1991 River Use Survey, the use of the water body for national championship events for national and international events (noting the O'Sullivan's Rapid) and its high and steady flows.
321. In 1996, the Planning Tribunal found a section of the Buller River to contain outstanding rafting features, based on a combination of factors, including the river's ability to provide reliable and consistent flows and its ability to provide safe and exciting rafting in higher flows.

### Reputation / non-local usage

322. Although not 'characteristics' of a water body itself, the following are commonly discussed by decision makers when drawing conclusions around a water body's outstanding nature
- a. the national and international reputation of a water body for a high quality rafting, jet boating or kayaking experience and
  - b. the type and location of participants it attracts.
323. A water body's reputation is connected to its non-local usage, with those water bodies known for their high quality rafting, jet boating or kayaking experiences, used by people who live locally, nationally and internationally. The use takes place either privately or through a commercial operation. In some cases, due to the superiority of the feature, the river is used for national or international championship events.
324. On its own, total usage rates do not denote a water body's outstanding nature for a rafting, kayaking or jet boating amenity, as there are a number of factors which can influence participation rates.
325. This finding was supported by the Special Tribunal considering the Mohaka River who dismissed claims made that due to low participation rates, the Mohaka River is not outstanding for the recreational rafting experience it provides. That Special Tribunal noted *"high quality opportunities should be made available for the whole spectrum of sporting activities undertaken by New Zealanders"*.
326. This is also consistent with discussions by the Special Tribunal considering the rafting features of the Buller River, who noted that while the Shotover and Kawarau rivers have considerably larger numbers of people rafting them on an annual basis *"this is because they are in close proximity to one of New Zealand's premier tourist centres, namely Queenstown... and is not necessarily determinative of the question whether the rafting feature of a water body...is outstanding in a national context"*.
327. Notwithstanding, participation in an activity by people from outside of the area can give an indication of its 'specialness'(see Paragraph 274). Water bodies identified as providing an outstanding rafting, jet boating or kayaking amenity, by way of WCO, have a national or international reputation and are commonly used by people who live outside of the area, as follows:
- a. In 2002, the Special Tribunal found the Rangitata River to have outstanding kayaking and rafting values, and the upper Rangitata River to have outstanding jet boating values, based on the disappointment assessment method and its high non-local interest. The Rangitata River is used both privately and commercially, for jet boating, kayaking or rafting activities, by people who live outside of the area. Jet boaters from around New Zealand view the upper Rangitata River as a "must do" jet boating experience. There are a number of commercial rafting operations and people commonly travel from Otago to kayak the river.
  - b. In 1996, the Planning Tribunal found part of the Buller River to contain an outstanding canoeing feature, noting the use of the water body for national championship events and use of the O'Sullivan's Rapid for national and international events.
  - c. In 1996, the Planning Tribunal found part of the Buller River to contain an outstanding rafting feature, noting its national international significance and usage. The Tribunal stated it is clear that there are a large number of people catered for by this particular activity. Several commercial rafting operations run rafting trips along the river.

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*"disappointed" .....Thus, if a resource that consistently satisfies a set of expectations is changed in some way, then the level of disappointment is likely to be extreme."*

- d. In 1983, the Committee found the middle reaches of the Motu River to provide an outstanding amenity for white water recreation, with the Planning Tribunal later adding part of the lower reaches through appeal proceedings. The Motu River has high numbers of visitors from outside of the area and is one of the most commercially viable rivers in the North Island for white water recreation.
- e. The Planning Tribunal found the upper Mohaka River to provide an outstanding rafting experience. Rafting is one of the most popular activities for both domestic and overseas tourists on the Mohaka River, with a number of commercial rafting companies operating in the area.
- f. Both the Special Tribunal and the Planning Tribunal found the Shotover River to be outstanding for its kayaking, rafting and jet boating values, with the upper Shotover River in particular identified as contributing to the outstanding kayaking, rafting and jet boating amenity in the lower river. The river is part of the Kawarau catchment which has a national and international reputation and high non-local usage. A number of commercial operators use the Shotover River, with approximately 179,000 visitors participating in rafting and jet boating activities on the lower river. This is well in excess of any other river in the country any of which had a maximum of 10,000 visitors for the same period.

### Evidence sources

328. When assessing whether a water body provides an outstanding rafting, kayaking or jet boating amenity, decision makers have sought extensive evidence to be satisfied of the claimed outstanding features. Where insufficient evidence exists for decisions makers to be satisfied that an outstanding amenity is present, an outstanding status has not been recommended.
329. Evidence specifically referred to in past WCO reports and recommendations, when a jet boating, rafting or kayaking experience is being assessed, includes evidential sources such as:
- a. expert evidence,
  - b. testimonies from rafters, jet boaters or kayakers, and their associated national, regional and local associations
  - c. a water body's national or international reputation
  - d. a water body's level of non-local usage and
  - e. the extent to which a water body is discussed (or any associated grading or rating), in publications produced independently of the WCO application.
330. These evidential sources are considered in addition to the key factors identified in Table 8, which are the common features of all water bodies identified as containing an outstanding rafting, jet boating or kayaking amenity for WCO purposes.
331. Independent publications
332. A water body's grading, rating or description in independent publications have been commonly discussed by decision makers. This information has assisted decision makers to draw conclusions about a water body's outstanding nature, particularly when discussing amenity features which cannot be easily compared and qualified.
333. In 1989, the Tribunal identified both the Mangles and Matakītaki rivers (Buller catchment) as containing outstanding canoeing features. This decision was subsequently overturned by the Planning Tribunal in 1996, when it found that while both rivers contain canoeing features that are regionally important, neither feature highly enough in the New Zealand rankings to justify them being classed as outstanding. In this instance, the Planning Tribunal did not see an appropriate correlation between the claimed outstanding features and an evidence source, such as reputation, usage, or an independent publication, finding the canoeing features offered by these rivers not to be outstanding in a national context.
334. Similarly, in 1996 when considering parts of the Buller River, the Planning Tribunal referred to a number of factors (see Paragraph 310), including the results of the 1991 River Use Survey which "*demonstrates the national importance of several of the waterbodies*", to support their findings that the two sections of the Buller River main stem contain outstanding canoeing features.
335. This is consistent with the findings of the Special Tribunal that considered the Rangitāta River WCO application in 2002. Here, the Special Tribunal found the gorge to have an outstanding kayaking amenity. The gorge is considered to be one of top 100 kayak runs in New Zealand and is in "*New Zealand Whitewater: 120 Great Kayaking Runs*" as "*a legendary Canterbury test piece and adrenaline stimulant*" and "*the home of the Canterbury kayaking megagods/goddesses*".

336. Notwithstanding, while a high rating in a survey or investigation undertaken independently of the WCO application has assisted some decision makers in drawing conclusions around a water body's outstanding nature, on its own a high or low grading neither qualifies nor disqualifies the water body from being identified as providing an outstanding rafting, jet boating or kayaking experience.
337. This finding is consistent with discussions by the Committee that considered the canoeing and jet boating amenity provided by the Grey River. In that case, the Tribunal determined these sections of river were not outstanding on a national basis despite parts of the Grey River being rated as exceptional for both scenic and recreation values in the New Zealand Recreational River Survey.

## Wild and Scenic values

338. New Zealand contains a high number of unique and beautiful landscapes some of which are solely land or water, or a mixture of both. This section focuses on the wild and scenic values of those landscapes where a water body is the central component of the scenery.
339. Landscape values commonly overlap with many of the other values, in particular recreational values discussed earlier in this report. However, in those instances the surrounding landscape forms one part of the high quality recreational experience rather than being outstanding in its own right.
340. In 2013, when considering the wild and scenic values of the Nevis River, Judge Jackson noted for WCO purposes: *"wild" and "scenic" are merely two examples of "natural" characteristics. If a water body has "other natural characteristics" that do not fit readily into the two subcategories of "wild" and "scenic" that is not a problem. If they are outstanding, then any natural characteristics qualify under section 199(2)(b)(iii)".*

### Wild and scenic

341. This section discusses the key characteristics used in past WCO reports and recommendations to determine if a water body has nationally outstanding wild and/or scenic values.
342. At least ten water bodies have been assessed for WCO status in respect to the wild and scenic values they provide.

### Key findings

343. When assessing if a water body has outstanding wild and/or scenic values, decision makers firstly determine whether the waters are an essential component of the landscape, and secondly whether the water body displays wild or scenic qualities that are striking or special on a national basis that are present in few other water bodies across New Zealand.
344. Decision makers have stated preference for a wide range of expert approaches, and wild and scenic interpretations, when assessing these values over the years. Preferred expert approaches range from qualitative assessments, which take into a range of factors, to more quantitative assessments against a set of defined criteria or a mixture of the two. Given the large range of approaches used by experts to identify outstanding wild and scenic values over the years, these approaches have been summarised, but no common themes have been identified for the purposes of this report.
345. As such, this section does not focus on the distinguishing features of these water bodies which are instrumental in the water body being identified as outstanding. Instead it focuses on the evidential sources Tribunals and Courts have used to determine a wild or scenic value of a water body to be striking or special, on a national basis, for WCO purposes.
346. When determining if the water body displays wild or scenic qualities that are striking or special on a national basis, decision makers have typically visited the water body, considered the extent to which these features are found in other water bodies across New Zealand and taken into account a combination of evidence sources such as, expert assessments, visitors from outside of the area, reputation, testimonies from recreational users, and the extent to which it is discussed, or any associated grading or rating, in publications not related to the WCO application.
347. The Buller River, Manganuioteao River, Mohaka River, Motueka River, Motu River, Nevis River, Shotover River, Rangitata River, Te Waikoropupū Springs and the Ngaruroro River, or parts thereof, were found by decision makers to have outstanding wild and or scenic values, Table 9 sets out the key factors decision makers have referred to when determining these values to be outstanding.

Table 9: Key features: outstanding wild and/or scenic values

Water body	Features		Evidence source	
	Waters essential part of the landscape	Landscape contains distinctive qualities that makes it stand out comparatively on a national basis	Expert assessment(s)	Surveys/ inventories Considered in assessment/ other evidence
<b>Buller River (parts thereof)</b>	Waters are an essential part of the landscape.	Contains wild and scenic quality that is probably unique in a national context.	Yes	Scenic nature referred to by witnesses.
<b>Manganuioteao River</b>	Waters are an essential part of the landscape.	Highly uniform wild and scenic quality throughout the riverscape. "the tranquillity in a natural landscape is without peer in the North Island".	Yes	New Zealand Recreational River Survey (1981). Majority of testimonies mention the river's scenic nature.
<b>Upper Mohaka River (Mokonui and Te Hoe gorges)</b>	Waters are an essential part of the landscape.	Mokonui and Te Hoe gorges possess landscape elements not represented in other rivers.	Yes	Detailed survey of the catchment undertaken by the Hawke's Bay Catchment Board. Public input into the process confirmed the river had nationally important scenic and recreational values.
<b>Motueka River (parts of upper river)</b>	Waters are an essential part of the landscape.	Parts of the upper river have distinctive scenic, wild and natural qualities and characteristics, which are outstanding on a national basis.	Yes	New Zealand Recreational River Survey (1981). Witnesses about the "pleasant and scenic environment".
<b>Motu River (part of)</b>	Waters are an essential part of the landscape.	Significant length of the Motu River rates higher scenically than any other north island river and is equalled on only three South Island Rivers. Wildest and remotest of any major north island rivers.	Yes	-
<b>Lower Nevis River Upper Nevis River</b>	Waters are an essential part of the landscape.	Striking tumultuous and tumbling whitewater .	Yes	-
<b>Shotover River Kawarau catchment</b>	Waters are an essential part of the landscape.	Extraordinary beauty, variety and drama. Presence of schist basement rock, few rivers have this characteristic.	Yes	64 NZ Rivers (1979). New Zealand Recreational River Survey (1981). National Inventory of Wild and Scenic Rivers (1982 and 1984) Rivers and lakes deserving inclusion in a schedule of protected waters (1986). Testimonies commenting on wild and scenic qualities.
<b>Rangitata River</b>	Waters are an essential part of the landscape.	Headwaters, upper and gorge outstanding wild and scenic characteristics. All display distinctive qualities that stand out from other rivers including: - Glaciated headwater, highly natural with exceptional scenery detailing natural processes. - Upper Rangitata, braided river system, part of a grand and beautiful landscape. - Gorge: Only major snow fed braided river to display such a confined gorge with exceptional scenic characteristics.	Yes	64 NZ Rivers (1979). New Zealand Recreational River Survey (1981). National Inventory of Wild and Scenic Rivers (1982 and 1984) Rivers and lakes deserving inclusion in a schedule of protected waters (1986). Canterbury Regional Landscape Study (1993). Testimonies on the scenic values.
<b>Te Waikoropū Springs</b>	Waters are an essential part of the landscape.	A natural formation - the largest karst springs in the Southern hemisphere.	No	-
<b>Upper Ngaruroro River</b>	Waters are an essential part of the landscape.	Wild and scenic values close to unique, due to the concentrated diversity within a relatively short distance of river through many different landscapes (wild and forested gorges, sense of remoteness, pristine natural features, high water quality, open headwaters).	Yes	Landscape assessments undertaken for Hastings District Council and Rangitikei District Council (1996, 2010, 2013). RiVAS Natural Character assessment (2012).

## What is not outstanding?

348. The wild and/or scenic values provided by the following water bodies were assessed for WCO purposes and found not be outstanding in a national context. The discussions contained within these reports and recommendations demonstrate when wild and/or scenic values do not meet the outstanding threshold. Key findings are summarised below:

- a. In 2007, the Special Tribunal found the upper Oreti catchment to not have outstanding wild values based on, its accessibility by road, human modifications in the surrounding landscape and introduced weed species. The Oreti River is a single thread waterway with no rapids or waterfalls.
- b. In 2007, the Special Tribunal found the upper Oreti to not have outstanding scenic values, despite noting the river and surrounding area is quite striking with clear water. With respect to the lower river, the Special Tribunal noted *"the lower rivers certainly has no notable scenic values. It is a typical semi braided river running across the relatively flat Southland Plains. It is like many other similar rivers east of the main divide in the South Island"*.
- c. In 2002, the Special Tribunal found the lower Rangitata River to not have outstanding scenic characteristics, despite having significant amenity value. The lower Rangitata River has been modified in areas, with high numbers of exotic species in places, with experts all agreeing its scenic characteristics did not stand out on a national scale.
- d. In 1996, the Special Tribunal found the Matakia River (Buller catchment) to not be outstanding for scenic values, despite the river flowing through a substantial and beautiful patch of red beech forested flats and being an intense and remarkable stretch of beautiful tributary. Experts advised it was similar to some of the forested areas associated with other South Island rivers.
- e. In 1996, the Special Tribunal found the Maruia River (Buller catchment) to not be outstanding for scenic values. The Special Tribunal heard expert evidence that the river was a 'scenic gem' despite being modified by farming in parts.
- f. In 1996, the Special Tribunal found the Waitahu River (Buller catchment) to not be outstanding for wild or scenic values. While the Waitahu River was found to have wild and scenic characteristics, none were identified as standing out from many of the other attractive and unspoilt creeks and rivers throughout New Zealand.
- g. In 1992, the Planning Tribunal considering the wild and scenic values of the Mohaka River stated *"we do not accept the appropriateness, for the purposes of the Tribunal's inquiry, of starting with a 'given' that all unmodified natural landscape in the Mohaka River system is of outstanding quality"*. The Tribunal further noted with respect to the river's wild characteristics that *"while the Mohaka headwaters possess solitude and remoteness, but for all their quality, they are not accepted as outstanding"*.
- h. In 2013, the Environment Court did not find the upper Nevis River to feature outstanding wild values, despite recognising parts of the upper river had impressive 'wildness' stating some sections of the upper river were *"tumultuous and equally tumbling with whitewater"* as parts of the lower river which has recognised outstanding wild values. In this instance, the Court found the 'wild' characteristic to be more evidence and striking below the crossing than it did above it. Further, in response to the suggestion that 'it is the overall feeling of naturalness of the upper Nevis that most people would respond to', Judge Jackson indicated that 'naturalness' does not equal 'wildness', further noting *"while wildness is identified as a 'natural character' the section tends to consider other natural qualities as separate features of rivers which may be outstanding if they are identified"*.

## Discussion

349. For WCO purposes, to be considered for outstanding wild or scenic values, the nature of the waters themselves must display wild or scenic qualities that are striking or special on a national basis.

350. The discussions contained within WCO reports and recommendations in support of this finding are discussed below, together with the meaning of 'wild' and 'scenic', the different expert assessments used over the years, reputation and visitor numbers and independent publications.

351. Waters must be an essential component of the landscape

352. When assessing if a water body has outstanding wild and/or scenic values, decision makers have firstly determined whether the waters are an essential component of the landscape. If it is the wild and/or scenic values of the surrounding landscape that predominately contributes to the outstanding values, then the water body itself has not been considered to be the central component of the scenery.

353. This finding is supported by the Buller River WCO report and recommendation, where the Planning Tribunal stated: *"it is well established, and indeed accepted by the experts in such matters, that it is the waters themselves or the contribution they make to such values that need to be considered"*.
354. This is consistent with discussions on wild and scenic values in the Rangitata River WCO report and recommendation, which noted the experts agreed *"it is the waters themselves or the contribution that they make to the wild and scenic values that need to be considered"*.
355. Similarly in 2019, when discussing Te Waikoropupū Springs, the Special Tribunal noted *"It is the nature of the waters themselves (or the contribution they make to such values), rather than the surrounding landscape, that needs to be considered"*.
356. In 1996, the Planning Tribunal found the Shotover River to contain wild and scenic values, noting the waters are a dominant feature throughout, whether running clear or not, making this a very special river. That report and recommendation indicates the presence of schist formation distinguishes it from other rivers.
357. In 2013, the Court's assessment of the wild and scenic values of the Nevis River focused on the river and its margins. In this case, the Judge was critical of that focus, saying that one of the two experts focused too much on the characteristics of the waters of the Nevis River, rather than on the river and its margins, whereas the other expert had focused too much on the wider landscape which includes the Nevis River.
358. What is the meaning of wild and scenic?
359. Decision makers have stated a preference for a wide range of interpretations of 'wild' and 'scenic' when assessing these values over the years. The various interpretations used for 'wild' and 'scenic' are discussed in the following paragraphs.
360. In 1992, the Planning Tribunal considered wild and scenic values of the Mohaka River. That Tribunal recorded in its report and recommendation that *"It may be wild if it is untamed or turbulent. It may be scenic if its surface is pleasing to the beholder's eye"*. The Tribunal then stated a preference for (but it did not formally adopt) a definition of 'wild' put forward by an expert that was used in the publication "A list of Rivers and Lakes Deserving Inclusion in a Schedule of Protected Waters".
361. In 2002, when assessing the wild and scenic values of the Rangitata River, the Special Tribunal stated *"wildness is not wilderness, nor necessarily indigeneness, or pristine. However, we expect that outstanding wild characteristics will occur in largely indigenous natural situations"*. The Special Tribunal then further noted *"wild implies an untamed or relatively unmodified environment, and in turn, "scenic" implies a visual environment, which has fine natural scenery, sometimes described as picturesque but not always so. It is the general appearance of natural features in a district which amount to the scenery. Every area has a scenery. However, the values people place upon that scenery differ according to the viewers' perceptions."*
362. In 2003, the Environment Court referred to the definition of 'wild' as it was applied in the following two publications "A list of Rivers and Lakes Deserving Inclusion in a Schedule of Protected Waters" and "the National Inventory of Wild and Scenic Rivers." Those publications refer to wildness as being:
- *"extensive and remote with land and waterscape shaped by natural processes;*
  - *shows little evidence of change indicated by human activities; no impoundments or diversions, or alterations to water quality;*
  - *has no vehicular access to the interior;*
  - *accommodates human activity at a level which does not compromise the sense of remoteness and solitude"*
  - *"The distinguishing feature ... is that the area is very highly valued for the experiences of remoteness and solitude, respite from environments subdued tamed or otherwise influenced by human activities, and enjoyment of a landscape shaped by natural processes"*.
363. In 2007, the Special Tribunal found the upper Oreti River catchment did not have outstanding wild values, stating *"We do not consider that the upper Oreti catchment can be described as 'wild'. There are several reasons for this. Much of the upper valley is easily accessible by road. Many of the flats beside the river are farmed, albeit extensively, and the riverbed is in places accessed by grazing stock and encroached upon by introduced weed species such as gorse and broom. The river itself is an unconfined single-thread channel, with no rapids or waterfalls between narrow rock buttresses that make river channels appear 'wild' (the upper Mohaka, Rangitikei and Motu rivers being very good examples)"*.
364. In 2019, the Special Tribunal found Te Waikoropupū Springs to have outstanding 'wild' values stating *"A natural feature of this scale and type is easily identified as 'wild', as the nature of the waters themselves are fundamentally unaltered by mankind"*.

365. In 2013, when considering the 'wild' values of the Nevis River, Judge Jackson concluded that *"wild" when used of a river may mean more than simply the presence of rapids and turbulent white water. It may refer also to the steepness of the topography, the presence of vegetation, the sides of the river, to the low density of buildings and structures in or adjacent to the river, and to the lack of roads or tracks accessing the river (or the relevant parts of it).*" In respect to the wild and scenic values, Judge Jackson found there was no need to stretch the ordinary meaning of the words 'wild' or 'scenic' as stated in the dictionary:

- *'wild' as meaning (relevantly i.e. in relation to natural things): Of a place or region: Uncultivated or uninhabited; hence, waste, desert, desolate; Belonging to or characteristic of a wild region; of or in a wilderness; Not under or not submitting to control or restraint; Of the sea, the weather, etc.: Violently agitated, rough, stormy.*
- *'Scenic' is defined as (relevantly) "... dramatic; theatrical ..."*

366. In 1996 and in 2004, the Tribunals' respective reports and recommendations for the Motueka and Kawarau rivers referred to descriptions of 'wild' and 'scenic' set out in the publication "A list of Rivers and Lakes Deserving Inclusion in a Schedule of Protected Water". The Kawarau River WCO Tribunal further noted the following explanation comment in respect to 'wild' from the publication "National Inventory of Wild and Scenic Rivers" from which this definition was derived:

*"The distinguishing feature ... is that the area is very highly valued for the experiences of remoteness and solitude, respite from environments subdued tamed or otherwise influenced by human activities, and enjoyment of a landscape shaped by natural processes".*

367. Given the approach summarised in the Kawarau River WCO report and recommendation, it is relevant here to also consider the following meaning of natural values. Here, in order to be 'outstanding' the water body needed to rate high or very high with respect to its scenic, wild and natural values:

*"Natural" values as essentially a measure of visible change in the landscape and an evaluation of the degree of visual disruption induced by change. 'Natural values' category is included as an adjunct to wild values. It is partly a measure of the degree to which human intervention has, directly or indirectly, changed the riverscape from its original natural condition. Where 'wild values' incorporates visible human intrusion as one factor which can affect the overall 'wild' rating, 'natural values' assesses the nature and effect of human presence.*

*Natural values are measured in terms of evidence of modification to the river, vegetation or landform, including buildings or structures. It takes into account features such as exotic forestry or weed infestation (gorse, old mans beard), damage to vegetation by introduced animals, evidence of farming (cleared land, grazing animals), roading, slips, structures on the riverbank or surrounding land, and river bank erosion. Besides the impact of man, 'natural values' also incorporates an element of ecological (natural or maintained) balance, by registering natural phenomena such as slips and flood damage. Essentially it is a measure of visible change in the landscape and an evaluation of the degree of visual disruption induced by change".*

368. Wild or scenic qualities that stand out on a national basis

369. Once decision makers have established that the water body forms an essential part of the landscape, an assessment is typically carried out as to whether the water body displays wild or scenic qualities that are striking or special (including the extent to which these features are found in other water bodies across New Zealand).

370. Discussions contained in WCO reports and recommendations have indicated that assessments of this type can be challenging, given there are a high number of water bodies in New Zealand which are scenically beautiful, wild, untamed, unmodified and intact. This is further complicated by the fact that wild and scenic values of water bodies cannot be easily compared and quantified, with people seeing and feeling different things when looking at a landscape.

371. When determining if a water body displays wild or scenic qualities that are striking or special on a national basis, decision makers have typically visited the water body and made their own observations, focusing on whether there any special features of the water body which 'stand out', while taking into account a combination of evidential sources (such as expert assessments, visitors from outside of the area, reputation, testimonies from recreational users, and the extent to which it is discussed, or any associated grading or rating, in independent publications not related to the WCO application).

372. When carrying out their assessments, decision makers have considered the extent to which similar features are present in other water bodies in New Zealand. If the features are found to be striking and beautiful but are present

in a number of other water bodies across New Zealand, these features are found to not be outstanding for WCO purposes.

373. This finding is consistent with the conclusions of the two respective Special Tribunals considering the scenic values of the Oreti River and the Matakia River (Buller River WCO). In these cases (despite finding the rivers to be quite striking and beautiful), the Tribunals found them to be similar to many other South Island rivers and deemed them to be not outstanding.

374. Similarly, when considering the wild and scenic values of the Rangitata River in 2002, the Special Tribunal noted "*We consider that these types of landscape are more commonplace in Canterbury than nationally, and can be nationally outstanding even if only significant regionally*".

375. Expert assessments

376. Wild and scenic values of water bodies cannot be easily compared and qualified. When determining if a water body displays wild or scenic qualities that are striking or special on a national basis, decision makers have been informed by expert assessments.

377. Given there is no accepted assessment method for assessing the wild and scenic values of a water body, decision makers typically rely on expert's findings to inform their findings. When there are two or more experts with conflicting approaches, tribunals choose a preferred approach with significant weight accorded when two separate assessment methods support an outstanding status.

378. Decision makers have stated a preference for a wide range of expert assessments over the years. Preferred expert approaches range from qualitative assessments, which take into a range of factors, to more quantitative assessments which carry out a systematic evaluation of each part of a water body against a set of defined criteria or strict method, or a combination of the two. Occasionally, experts have relied on past landscape assessments undertaken to inform their overall findings. Methods used in past 'wild' and 'scenic' assessments have included:

- a. In 1992, the Planning Tribunal considering the Mohaka River stated its preference<sup>18</sup> for an approach described as 'a cognitive approach to visual assessment'. The method measured the scenic, wild and natural values of different sections of the Mohaka River against a set of defined criteria, scoring them against a scale ranging from very low to very high.
- b. In 1996, when considering the outstanding wild and scenic characteristics of the Buller River system, the Special Tribunal stated a clear preference for an approach put forward by a landscape architect involving five interconnected components:
  - (a) a review of literature;
  - (b) a description of the characteristics and features of the particular water bodies being assessed;
  - (c) a comment on relevant affidavits prepared by the applicants in support of this aspect of the case;
  - (d) own subjective judgment of expert witnesses; and
  - (e) review of other WCOs.
- c. In 2003, the Environment Court supported a method which scored the scenic, wild and natural values of different sections of the Motueka River against a set of defined criteria. In that case, the Court stated "*... approach has been thorough and rigorous in order to identify only those waterbodies which are truly outstanding in a national context*". The method, was similar to that carried out for the Mohaka River and Kawarau River. The approach measured the scenic, wild and natural values of 93 representative survey points in the Motueka River catchment and scored them against a scale ranging from very low to very high. Surveys by experts were undertaken by road and foot, with an aeroplane flight over the whole study area. To qualify as being of national landscape significance, the area was required to rate 'very high' or 'high' on all categories (scenic, wild, and natural).
- d. In 1993, the Special Tribunal found the Kawarau River, Lake Wakatipu, Dart River, Shotover River (or parts thereof) to have wild and/or scenic values. The WCO report and recommendation referred to a wild and scenic assessment method based on a number of qualitative criteria. That method considered:
  - (a) the place of the river within the wider landscape framework (context),
  - (b) the elements and patterns they form (composition),
  - (c) character and detail of individual features (elements) and
  - (d) ephemeral factors (sound, colour, mood).

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<sup>18</sup> The Tribunal stated its preference for this approach, while also noting reservations stating that this method does not give sufficient weight to diversity in the landscape.

That Special Tribunal's report and recommendation also noted expert evidence had presented descriptions of the rivers and stream in the catchment and reviewed several national surveys of wild and scenic rivers as part of an assessment method.

- e. In 2007, the Special Tribunal considering the wild and scenic values of the Oreti River, did not hear any expert evidence in support of outstanding wild and scenic values, and did not find the Oreti River to contain any outstanding scenic or wild features, despite finding the river itself to be 'visually quite striking'.
- f. In 2002, the Special Tribunal considering the wild and scenic values of the Rangitata River weighed up the evidence presented by two expert landscape planners, a hydrological and environmental scientists, submitters and past assessments and their own field visits. While the Tribunal didn't specifically state any preference for an approach, their decision was largely consistent with the expert witness who presented a systematic evaluation of the reaches for outstanding wild and scenic and other characteristics. The Tribunal found the headwaters, upper river and gorge to provide outstanding wild and scenic values for WCO purposes.
- g. In 1997, when discussing wild and scenic values of the upper Shotover River, the Planning Tribunal stated a preference for the expert's approach which included ratings of the Shotover River found in several river landscape assessments carried out independently of the WCO application. Further, the Planning Tribunal agreed with experts *"that it is not necessary for an application to establish that a characteristic is 'unique' what must be established is that it stands out in comparison with those other rivers"*. In finding the entire Shotover River to contain wild and scenic values, the Planning Tribunal noted *"it is of some importance to notice too that most, if not all, the earlier assessments were of the whole river as an entity and, in the end, we think this is the most realistic way to view this particular claimed outstanding characteristic. While there are obvious differences, particularly in scenery, and in parts in the wildness of the waters in the upper and lower river, the combination of these with the waters being a dominant feature throughout, whether running clear or not, make this a very special river. The presence of schist formations also distinguishes it from other rivers"*.
- h. In 2019, the Special Tribunal found the upper Ngaruroro River to have outstanding wild and scenic values, accepting evidence provided by the sole expert landscape planner in those proceedings. That expert's approach included references to landscape assessments undertaken independently and prior to the WCO application, which showed that almost all of the upper Ngaruroro waters had been identified as an 'outstanding natural landscape' by independent experts using accepted current landscape assessments criteria". The Special Tribunal further noted the expert had strong familiarity with south island rivers and described the landscape in a manner which enabled the Tribunal to determine it was unique or close to unique on a national basis due to its concentrated diversity within such a short distance.
- i. In 1989, the Committee found the Manganuioteao River to have outstanding wild and scenic values, based on a detailed landscape assessment undertaken of the Manganuioteao River system by a landscape architect. A model of landscape preferences was used to give a general impression of the river's wild and scenic values, showing that *"the overall score indicates a highly uniform wild and scenic quality through and is outstanding from this point of view... the tranquility in a natural landscape is without peer in the North Island"*.
- j. In 1983, the Committee found parts of the Motu River to have outstanding wild and scenic values, after hearing evidence presented in support of its outstanding characteristics. One witness testified that comparatively, the Motu River rated higher scenically than any of the other North Island rivers and is equalled by only three South Island rivers. Another witness testified that the middle reaches of the Motu River are the wildest and remotest of any major river in the North Island.

#### 379. Visitor numbers

380. In 2019, the Special Tribunal found Te Waikoropupū Springs to have outstanding scenic values, based on several factors including the visitor numbers, noting *"the visitor numbers to Te Waikoropupū Springs are indicative of the highly scenic nature of the springs"*. Between 80,000 - 90,000 people visit the Springs each year.

#### 381. Independent publications

382. When determining if a water body displays wild or scenic qualities that are striking or special on a national basis, a water body's grading, rating or description in independent publications are commonly discussed by decision makers, or used as part of expert assessments, when drawing conclusions around a water body's outstanding nature.

383. Publications commonly referred to in WCO reports and recommendations regarding wild and scenic qualities include:

- a. National Inventory of Wild and Scenic Rivers;
- b. List of Rivers and Lakes Deserving Protection in a Schedule of Protected Waters;
- c. 64 New Zealand Rivers: A Scenic Evaluation;
- d. New Zealand Recreational Survey and
- e. The National Inventory of Wild and Scenic Rivers.

## Karst system / subterranean waters

384. Subterranean waters are those waters which are situated below the ground surface, found in the gaps, spaces and rocks, clay and other materials found in aquifers and karst systems. Karst systems typically feature caves and streams and springs, located both above and below ground, which support a range of unique ecosystems that have adapted to this type of environment.
385. Given the unique features and characteristics associated with karst systems and subterranean waters, these waters are discussed in a standalone section of this report.

### Karst system / subterranean waters

386. The karst systems of Mounts Owen and Arthur, and their associated subterranean waters, support a number of outstanding features, with various parts of this karst landscape considered in the WCO reports and recommendations for the Motueka River, Buller River and Te Waikoropupū Springs.
387. The following paragraphs in this section discuss the key characteristics these WCO reports and recommendations have referred to when determining if a karst system, and associated subterranean waters, feature any outstanding values in their own right.

### Key findings

388. When determining if a karst system and its associated subterranean waters are outstanding, decision makers have established if the waters have a special feature or value which stands out on a national basis.
389. This section discusses the key features of the karst systems / subterranean waters, associated with the Motueka River, Te Waikoropupū Springs and Buller River, decision makers have considered when determining if outstanding value(s) exist.

### Recreation: key features

390. When determining if waters in a subterranean karst system provide outstanding recreational qualities, decision makers have considered the type of experience, its national and international reputation and non-local usage.
391. The Motueka River was found by decision makers to have outstanding recreational qualities in its subterranean karst system. Table 10 sets out its key features.

**Table 10: Key features: outstanding caving experience**

Water body	Specialised high quality experience	National or international reputation / non-local usage
Motueka River karst system (recreational caving)	Specialised caving experience, most challenging and technical recreational caving in New Zealand. Aesthetically outstanding displays of speleothems, some of which are rare.	National and international reputation. Non-local usage (feature attracts interest from outside the region and country).

392. Specialised type of high quality experience and reputation
393. In 2003, the Environment Court endorsed the earlier conclusion of the Special Tribunal in 1991, finding the waters in the subterranean karst system of the Motueka catchment to have outstanding recreational qualities for recreational caving.
394. The karst system of the Motueka catchment holds the most challenging and technical recreational caving in New Zealand. The Nettlebed cave system offers one of the deepest caving through trips in the world and is listed as internationally significant. The caving system has international fame with cavers from all over the world visiting to explore the system and view the speleothems displays.

### Scientific: key features

395. When determining if a karst system and/or its subterranean waters have outstanding scientific features, decision makers have focused on the key features of the system; the extent to which they were rare or distinctive when compared to similar systems; and their importance on a national or international scale.
396. The karst system / subterranean waters of the Motueka River, Buller River and Te Waikoropupū Springs were found by decision makers to have outstanding scientific values. Table 11 sets out the key features of the karst system / subterranean waters.

**Table 11: Key features: outstanding scientific values**

Water body	Unusual, unique or distinctive feature found in few other karst systems	National or international scientific significance
Motueka River karst system	Caves are deepest and longest in New Zealand (deepest in the Southern Hemisphere, some still unexplored). Contains Speleothems, some of which are rare. Supports fauna (troglobites), some of which is unique and unusual that has specifically adapted to the environment.	Nationally and internationally important.
Upper Owen River valley karst system	Most outstanding and important area of karst in New Zealand. Incompletely explored cave systems.	Nationally and internationally important.
Arthur Marble Aquifer & Te Waikoropupū Springs	The aquifer has an unusual combination of features (geologically and biologically) that clarifies the water so outstandingly well, producing exceptional water clarity in its outlet at Te Waikoropupū Springs.	Nationally and internationally important.

397. Unusual or distinctive characteristics & significance of karst system / subterranean waters

398. In 2003, the Environment Court endorsed the earlier conclusion of the Special Tribunal in 1991, finding the waters in the karst system of the Motueka catchment to have outstanding scientific qualities which stood out on a national basis. The Mounts Owen and Arthur karst system are recognised as being nationally and internationally important:

- (a) The cave system has been formed over millions of years, acting as a scientific 'time vault' holding evidence past geological process.
- (b) Its caves are recognised as the deepest (889 m) and longest in New Zealand, and the deepest in the Southern Hemisphere.
- (c) Many of the caves have aesthetically outstanding displays of speleothems, some of which are unusual or rare in nature.
- (d) The karst system supports troglobites - unique and unusual fauna that have specifically adapted to the environment and may have no close surface dwelling relatives.

399. In 1996, the Planning Tribunal found the karst system of the upper Owen River valley to have outstanding scientific values, finding the upper Owen River valley to be the most outstanding and important area of karst in New Zealand, which has international importance and attracts cavers from around the world to venture into the still incompletely explored cave systems.

400. In 2020, the Special Tribunal found the Arthur Marble Aquifer, and the waters of Te Waikoropupū Springs, to have outstanding scientific values, noting the unique nature of the Arthur Marble Aquifer/Springs karst system, and its scientific importance on an international scale. The karst aquifer nature together with its aquatic biodiversity and groundwater ecosystems, produce exceptional water clarity that is scientifically outstanding.

**Wild and natural characteristics: key features**

401. When determining if a karst system and/or its subterranean waters have outstanding wild, scenic or natural characteristics, decision makers focus on the key features of the system, the extent to which they are distinctive when compared to similar systems, and their importance on a national or international scale.

402. The karst system / subterranean waters of Te Waikoropupū Springs were found by decision makers to have outstanding wild and natural characteristics. Table 12 sets out the key features of the karst system / subterranean waters.

**Table 12: Key features: outstanding wild and natural features**

Water body	Distinctive feature that makes the natural characteristic stand out comparatively on a national basis	National / international importance
Arthur Marble Aquifer & Te Waikoropupū Springs.	Te Waikoropupū Springs (largest karst spring in New Zealand and Australia) are fundamental expression of the enormous, largely invisible, karst aquifer system, which is 'quintessentially 'wild'. The function of making the waters of Te Waikoropupū Springs so optically pure is an intrinsic aspect of the aquifer system (geological + biodiversity).	Te Waikoropupū Springs are nationally and internationally important.

403. Distinctiveness and national importance

404. In 2020, the Special Tribunal assessed the wild, scenic and natural characteristics of Te Waikoropupū Springs and the Arthur Marble Aquifer, finding the Arthur Marble Aquifer to have outstanding wild and natural characteristics "which are inherent in its creation and location beneath the Takaka Valley and surrounding hills".
405. The Special Tribunal noted: "In terms of the Springs' 'wild' characteristics, they are a natural formation - the largest karst springs in the Southern hemisphere. The nature of their waters, the colour, clarity and artesian pressure, are unmodified from their natural state. The springs are the largest discharge point from the largest karst aquifer system in New Zealand, known as the Arthur Marble Aquifer, which produces the exceptional water clarity that can be seen in its outlet at Te Waikoropupū Springs.
406. In finding the Arthur Marble Aquifer to have outstanding wild and natural characteristics in its own right, the Special Tribunal noted: "The evidence establishes that the AMA is quite out of the ordinary on a national basis.... the function of making the waters of Te Waikoropupū Springs so optically pure is an intrinsic aspect of the aquifer. It is artificial to say that the water clarity of Te Waikoropupū Springs is an outstanding feature, yet deny that the AMA which created that optical purity is itself outstanding".
407. When discussing the aquifer's 'wild' characteristics, that Tribunal further noted "the Arthur Marble Aquifer is 'quintessentially' wild. It almost entirely cannot be visited.... And cannot be seen, except where limestone protrudes the surface". The Special Tribunal then went on to dismiss the scenic values of the aquifer stating it has very limited scenic values.
408. Notably, at the beginning of its discussions, the Special Tribunal stated this matter was not relied on to justify the making of the WCO for Te Waikoropupū Springs.

**Ecology - habitat for aquatic organisms, including stygofauna and biofilm: key features**

409. When determining if a karst system and/or its subterranean waters provide an outstanding habitat for aquatic organisms, decision makers have focused on whether the habitat supports aquatic organisms that contain any distinctive or unique characteristics which stand out nationally when compared to similar systems.
410. The karst system / subterranean waters of Te Waikoropupū Springs were found by decision makers to provide an outstanding habitat for aquatic organisms. Table 13 sets out the key features of the karst system / subterranean waters.

**Table 13: Key features: habitat for aquatic organisms, including stygofauna and biofilm**

Water body	Provide habitat for aquatic organisms with distinctive features that stand out comparatively on a national basis	Importance
The Arthur Marble Aquifer & Te Waikoropupū Springs	The aquatic organisms (being the various microbes and stygofauna, some of which are unique) living in the aquifer are responsible for the spring's high water clarity, which is nationally significant.	The aquifer's biodiversity is integral part of Te Waikoropupū Springs, which is reliant on the aquatic organisms.

411. Distinctiveness, unusual or unique features

412. In 2020, the Special Tribunal found Te Waikoropupū Springs and the Arthur Marble Aquifer to provide an outstanding habitat for aquatic organisms, including stygofauna and biofilm.
413. Te Waikoropupū Springs are sustained by the Arthur Marble Aquifer system, which is responsible for the exceptional water clarity that can be seen at the Springs. The Special Tribunal noted:

*"The Special Tribunal also considers that a relevant consideration for the intrinsic values of the Springs ecosystems includes their special biological and genetic diversity, as described by Dr Fenwick: "The biodiversity of the aquifer system is very poorly known, but is probably rich in microbial and stygofaunal diversity, based on the diversity of physical habitats within the three aquifers and their long geological history. This aquifer microbial and stygofaunal biodiversity delivers the very significant ecosystem services, which, when in balance, remove essentially all organic matter (especially coloured DOC) from water arriving at the springs. Thus, the aquifer biodiversity and its balanced ecosystem functioning underlie the very substantial and diverse human values associated with both the springs and the aquifer, especially the spring's remarkably clear water"*

414. In this functional respect, the Special Tribunal found the biodiversity of the Arthur Marble Aquifer system to be very remarkable and nationally significant. Notwithstanding, based on their understandings from international literature and New Zealand case studies, experts advised that the biodiversity of the aquifer system is probably rich in microbial and stygofaunal diversity, with biota that is unique to it, as well as biota shared with other karst systems.

### Significance in accordance with tikanga Māori

415. The cultural and spiritual significance of Te Waikoropupū Springs and the Arthur Marble Aquifer system are set out in Paragraphs 159 to 192.

#### 416. Evidence

417. When assessing whether a karst system and/or its subterranean waters are outstanding, decision makers have sought extensive evidence in support of the claimed outstanding features.

418. Evidence specifically referred in past WCO decisions in support of outstanding features, include evidential sources such as expert evidence, past studies and assessments and associated importance rankings in documents produced independently of the WCO application process (such as the New Zealand Geopreservation Inventory).

## **Appendix 1: OWB identification screening framework (regional)**

1. The NPSFM requires the identification and protection of outstanding water bodies. However, it stops short of stipulating exactly what constitutes an outstanding value, and how the assessment and identification of outstanding water bodies should be undertaken.
2. In the absence of national guidance on criteria for evaluating and identifying outstanding water bodies, regional councils have discretion on the processes it may choose to identify their region's OWBs, and will need to consider their own region's unique circumstances.
3. While the NPSFM does not provide guidance on how values should be assessed, it is generally accepted that the term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'. This indicates that being outstanding sets a high bar, and in order to be classed as outstanding, a water body must be exceptional in some way.
4. The screening framework has been developed based the common themes, factors and characteristics of those water bodies with an outstanding status, discussed in the main body of this report. The screening framework has then applied those findings at a regional level. The framework's content has been limited to the information contained within this report and does not attempt to include the full range of values and uses of water.
5. The screening framework has been developed to assist regional councils with the identification of OWB in their region. It is just one of a number of options available to assist regional councils with the identification of OWB for NPSFM purposes. It is a tool which can be amended and adapted to suit local circumstances or to take into account community feedback.
6. There is no right or wrong approach for identifying a list of outstanding water bodies, providing there is a robust evidence base to support their selection. Some councils may choose to develop and pursue their own approach independently of the findings contained within this report.

**Table 14: Outstanding water body identification screening framework (regional)**

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>19</sup>
Ecology	<p><b>Habitat for aquatic birds (native and migratory)</b></p> <p>Water body should be further investigated as providing an outstanding habitat for aquatic birds where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>One of the highest regional populations of a native aquatic bird species which is endangered, threatened or distinctive<sup>20</sup>.</li> <li>One of the highest natural diversity of aquatic birds (native and migratory) in the region, which includes endangered or threatened species.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>International Union for Conservation of Nature (IUCN) criteria. RAMSAR site criteria reports. New Zealand threat classification system. IUCN red list. Expert evidence.</p>
	<p><b>Native fish habitat</b></p> <p>Water body should be further investigated as providing an outstanding habitat for native fish where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>A unique species or distinctive assemblage of native fish not found anywhere else in the region.</li> <li>Native fish that are landlocked and not affected by presence of introduced species.</li> <li>One of the highest diversity of native fish species in the region, which includes a threatened, endangered or distinctive species.</li> <li>An outstanding customary fishery.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding native fish habitat value.</li> </ol>	<p>Waters of National Importance. Expert evidence.</p>
	<p><b>Habitat for indigenous plant communities</b></p> <p>Water body should be further investigated as providing an outstanding habitat for an indigenous plant community where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>The indigenous plant community has a high diversity of habitats, or rare and threatened plant species in the region.</li> <li>The indigenous plant community contains special features not found anywhere else in the region.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>The indigenous plant community is reliant on the river flows, other aquatic characteristics, or is an integral part of the water body.</li> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>New Zealand Geopreservation Inventory. Protected Natural Area (PNA) surveys. Expert evidence.</p>
	<p><b>Habitat for trout and salmon</b></p> <p>Water body should be further investigated as providing an outstanding habitat for trout and salmon where it meets all matters in List A.</p> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Has an outstanding angling amenity, or is critical to maintaining an outstanding angling amenity elsewhere in the catchment.</li> <li>Supports a self-sustaining population of wild trout or salmon (i.e. fish population not periodically restocked from hatcheries).</li> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>Waters of National Importance. Headwater trout fisheries (NIWA). Expert evidence.</p>

<sup>19</sup> Evidence sources include, but are not limited to those listed.

<sup>20</sup> For WCO purposes, at least 5% of the national population (Rangitata River 2004).

Tikanga Māori	<p><b>Significance in accordance with Tikanga Māori</b></p> <p>Water body should be further investigated as being of outstanding significance in accordance with Tikanga Māori where it meets all matters in List A.</p> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>The features are of significance to Māori on a region wide basis.</li> <li>The features are acknowledged as outstanding, by the descendant groups most closely associated with the water body.</li> <li>The mauri of the water body is intact.</li> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>Waitangi Tribunal Reports. Statutory acknowledgements. Statements provided from Iwi members. Expert evidence. Deeds of settlements, Statutory acknowledgements, Customary uses reports. Court cases.</p>
Cultural and spiritual (tāngata whenua)	<p><b>Cultural and spiritual (tāngata whenua)</b></p> <p>Water body should be further investigated as being outstanding for cultural and spiritual values where it meets all matters in List A.</p> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>The features are of significance to Māori on a region wide basis</li> <li>The features are acknowledged as outstanding, by the descendant groups most closely associated with the water body.</li> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>Waitangi Tribunal Reports. Statutory acknowledgements. Statements provided from Iwi members. Expert evidence. Deeds of settlements, Statutory acknowledgements, Customary uses reports. Court cases.</p>
Recreation	<p><b>Angling amenity (trout and salmon)</b></p> <p>Water body should be further investigated as providing an outstanding recreational fishing experience (angling amenity) where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>at least one matter in List B and</li> <li>all matters in List C.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Trophy trout (over 4 kg in size).</li> <li>High numbers of large trout (water body supports the highest number of large trout in the region).</li> <li>High numbers of trout (water body supports the highest trout numbers in the region or the highest trout biomass in the region).</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>Variety of high quality angling experiences.</li> <li>Specialised high quality angling experience (scenic, solitude, challenging, high catch rate, ability to spot and fish to a particular trout).</li> </ol> <p><b>List C</b></p> <ol style="list-style-type: none"> <li>Wild trout fishery (self-sustaining trout population through natural replacement).</li> <li>Water body is accessible and suitable to fish (high water quality and suitable flows).</li> <li>A regional, national or international reputation as an exceptional trout fishery or high non-local usage (high numbers of anglers come from outside of the area).</li> <li>Evidence is provided in support of outstanding recreational experience.</li> </ol>	<p>National Angling Survey. Headwater trout fisheries (NIWA). Testimonies from anglers. National Inventory of Wild and Scenic River. Expert evidence.</p>
	<p><b>Rafting</b></p> <p>Water body should be further investigated as providing an outstanding rafting experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Variety of high quality rafting experiences found in few other water bodies in the region.</li> <li>A specialised high quality rafting experience found in few other water bodies in the region.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>The water body provides an outstanding rafting experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</li> <li>Regional, national or international significance as an exceptional rafting experience.</li> <li>High non-local usage (high numbers of participants come from outside of the area).</li> <li>Evidence is provided in support of an outstanding rafting experience.</li> </ol>	<p>1991 River Use Survey. New Zealand Recreational River Survey. Testimonies from rafters and their local or national associations. Expert evidence.</p>

	<p><b>Kayaking (includes canoeing)</b></p> <p>Water body should be further investigated as providing an outstanding kayaking experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Variety of high quality kayaking experiences found in few other water bodies in the region.</li> <li>A specialised high quality kayaking experience found in few other water bodies in the region.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>The water body provides an outstanding kayaking experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</li> <li>Regional, national or international significance as an exceptional kayaking experience.</li> <li>High non-local usage (high numbers of participants come from outside of the area).</li> <li>Evidence is provided in support of an outstanding kayaking experience.</li> </ol>	<p>1991 River Use Survey. New Zealand Recreational River Survey. New Zealand Whitewater: 120 Great Kayaking Runs. Testimonies from kayakers and their local or national associations. Expert evidence.</p>
	<p><b>Jet boating</b></p> <p>Water body should be further investigated as providing an outstanding jet boating experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Variety of high quality jet boating experiences found in few other water bodies in the region.</li> <li>A specialised high quality jet boating experience found in few other water bodies in the region.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>The water body provides an outstanding jet boating experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on high flows or subject to low flows).</li> <li>Regional, national or international significance as an exceptional jet boating experience.</li> <li>High non-local usage (high numbers of participants come from outside of the area).</li> <li>Evidence is provided in support of an outstanding jet boating experience.</li> </ol>	<p>New Zealand Recreational River Survey. Testimonies from jet boaters and their local or national associations. Expert evidence.</p>
<p><b>Landscape</b></p>	<p><b>Wild and scenic</b></p> <p>Water body should be further investigated as having outstanding wild and or scenic values where it meets:</p> <ul style="list-style-type: none"> <li>all matters in List A.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>Waters are an essential component of the landscape.</li> <li>Waters have wild and or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</li> <li>Evidence is provided in support of outstanding wild or scenic values by way of an expert assessment or independent evidence sources.</li> </ol>	<p>A National Inventory of Wild and Scenic Rivers. A list of rivers and lakes deserving protection in a schedule of protected waters. 64 New Zealand Rivers: a scenic evaluation. New Zealand Recreational Survey and the National Inventory of Wild and Scenic Rivers. Expert evidence.</p>
<p><b>Karst system / subterranean waters</b></p>	<p><b>Karst system / subterranean waters</b></p> <p>A karst system and/or subterranean waters should be further investigated as having outstanding values where the following is met:</p> <ul style="list-style-type: none"> <li>at least one matter in List A and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>A specialised high quality experience present in few other water bodies in the region.</li> <li>Wild and or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</li> <li>Unique or unusual scientific or ecological values present in few other water bodies in the region.</li> </ol> <p><b>List B</b></p>	<p>New Zealand Geopreservation Inventory. Expert evidence.</p>

- a) International or national reputation and or high non-local usage.
- b) Evidence is provided in support of outstanding values.