

In the Environment Court
At Auckland

ENV-2021-AKL-000104
ENV-2021-AKL-000105
ENV-2021-AKL-000106

I te Kōti Taiao o Aotearoa
KiTāmaki Makaurau

Between

**TE TAIWHENUA O HERETAUNGA, TE RUNANGANUI O
HERETAUNGA, TE MANAAKI TAIAO O HERETAUNGA AND NGATI
KAHUNGUNU IWI INCORPORATED**

**ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED and**

THE MĀORI TRUSTEE

Appellants

And

HAWKE'S BAY REGIONAL COUNCIL

Respondent

**EVIDENCE IN CHIEF OF DR GREG RYDER ON BEHALF OF HAWKE'S BAY REGIONAL
COUNCIL**

11 August 2023

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CONTENTS

	PAGE
1. INTRODUCTION.....	1
2. SCOPE OF EVIDENCE	3
3. EXECUTIVE SUMMARY	4
4. BACKGROUND TO PC7	4
5. EVOLUTION OF THE PC7 OUTSTANDING WATER BODY IDENTIFICATION SCREENING CRITERIA.....	5
6. THE RELATIONSHIP BETWEEN WCOS AND OWBS.....	8
7. DO THE PC7 CRITERIA ACCURATELY REFLECT WHAT HAS BEEN USED IN WCOS?	10
8. VALUE SETS SUBJECT TO CHALLENGE.....	10
8.2 Ecology – Habitat for native aquatic birds	11
8.7 Ecology – Native fish habitat	13
8.12 Ecology – Habitat for indigenous plant communities	15
8.16 Ecology – Habitat for above ground ecology values not otherwise provided for in the screening criteria.....	16
8.19 Ecology – Habitat for trout and salmon	17
8.27 Cultural and spiritual (tāngata whenua)	19
8.29 Recreation – Rafting, Kayaking (including canoeing) and Jet boating	20
8.31 Natural Character	22
9. VALUE SETS NOT SUBJECT TO CHALLENGE.....	23
9.2 Landscape – Wild and scenic.....	24
9.7 Karst system / subterranean waters	25
9.11 Geology.....	26
10. CONCLUSION	28
Appendix A: WCO decisions referred to in my evidence.....	29

1. INTRODUCTION

- 1.1** My full name is Gregory Ian Ryder and I am working on behalf of the Hawke's Bay Regional Council (**HBRC** or **Council**) to prepare evidence in relation to Proposed Change 7 to the Hawke's Bay Regional Resource Management Plan (**PC7**).
- 1.2** I work as an independent Environmental Scientist and RMA commissioner. I have worked as a consultant for over 30 years undertaking investigations and studies throughout New Zealand. Major study areas include the effects of agricultural land use, mining, gravel extraction, hydro-electric schemes, irrigation, urban water supplies, urban stormwater and various industrial and municipal sewage discharges on freshwater and coastal ecosystems.
- 1.3** I have worked on behalf of local and regional authorities, government departments as well as farming and industry interests. I have undertaken a wide range of investigations relating to surface water quality, freshwater ecology and land use throughout New Zealand. I have particular expertise in water, wastewater and leachate characterisation, effluent toxicity, biological data interpretation, instream habitat, data analysis, and plan and consent condition interpretations.
- 1.4** As an expert witness I have presented evidence at approximately 40 resource consent hearings, nine Environment Court hearings, and several plan change, Water Conservation Order (**WCO**), and Environmental Protection Agency (**EPA**) hearings. I appeared as an expert witness at the Rangitata River Water Conservation Order Application, the hearing Committee for a proposed TrustPower amendment to the National Water Conservation (Rakaia River) Order 1988, and the Special Tribunal hearing for a proposed Fish & Game amendment to the Kawarau River Water Conservation Order (Nevis).
- 1.5** I am a member of the New Zealand Freshwater Sciences Society and a Certified Resource Consent Commissioner (Making Good Decisions, Chair's certificate). In February 2020 I was appointed to the Board of the EPA and in September 2020 I was appointed as a Freshwater Commissioner under the Resource Management Amendment Act 2020.

- 1.6** The HBRC has asked me to provide comment on:
- (a) The Outstanding Water Body (**OWB**) identification screening framework adopted by the Independent Hearing Panel (**IHP**) that heard the PC7 application and their WCO origins.
 - (b) Whether the criteria accurately reflect what has been used in WCOs.
- 1.7** I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
- 1.8** The key documents I have used, or referred to, when preparing my evidence are:
- (a) the decision of the IHP on Proposed Plan Change 7;
 - (b) the reporting officers' s42A Hearing Report on Proposed Plan Change 7;
 - (c) the report titled Water Conservation Order Review: Outstanding Values: Key Features (Community Environment Fund - Outstanding Freshwater Bodies Project – CEF-OFWB);
 - (d) the report of the Local Expert Panel on Outstanding Water Bodies in Hawke's Bay (HBRC Report No. SP19-19);
 - (e) the National Policy Statement for Freshwater Management (**NPSFM**) 2020 (February 2023); and
 - (f) various decisions on national WCOs that I have referred to (Appendix A).

1.9 I have reviewed the final draft evidence of the following experts filed alongside this evidence for the Council:

- (a) Belinda Harper, evidence in chief (planning), dated 11 August 2023;
- (b) Antoine Coffin, evidence in chief (spiritual and cultural values), dated 11 August 2023;
- (c) Dr Andy Hicks, evidence in chief (ecology), dated 11 August 2023;
- (d) Rob Greenaway, evidence in chief (recreation), dated 11 August 2023 and
- (e) Jens Rekker, evidence in chief (geology), dated 11 August 2023.

1.10 I took part in a field trip that visited key sites on the Ngaruroro, Tukituki and Karamū catchments, Lake Poukawa and Pekapeka Swamp, on 7 August 2023 with Ms Harper, Dr Hicks and Mr Rekker. I have previously viewed these catchments in a wider context via a helicopter flight in 2021.

2. SCOPE OF EVIDENCE

2.1 My evidence provides expert input on the OWB identification screening framework adopted by PC7 Independent Hearing Panel, their WCO origins, and whether the criteria are appropriate for use in identifying OWBs at a regional level.

2.2 I note that not all the value sets in the Outstanding Water Body Identification Screening Criteria are subject to appeal. For completeness, I have discussed all the value sets, but have discussed the value sets subject to appeal at the start of my evidence and in more detail.

3. EXECUTIVE SUMMARY

3.1 The key conclusions reached in my evidence are that:

- (a) PC7 limits outstanding values to cultural & spiritual, recreation, landscape, geology, natural character and ecology values. PC7 requires these values to be outstanding in a regional context.
- (b) The screening criteria and associated methodology proposed in the HBRC version of PC7 is appropriate for screening regional water bodies for outstandingness and is generally consistent across all the value sets to be considered. It provides a good level of transparency in decision making, based on established tests for 'outstandingness' as set out in relevant water conservation order decisions.
- (c) The mandatory requirement in the screening criteria to provide evidence in support of determining outstanding features for all sets of values is consistent with the approach taken in WCOs that I have reviewed or been a part of and, in my opinion, provides an important additional level of scrutiny.

4. BACKGROUND TO PC7

4.1 PC7 is a change to the Hawke's Bay Regional Resource Management Plan (**RRMP**) to include a list of the region's outstanding water bodies, together with a framework which prescribes a high level of protection for these water bodies in future planning. The list of outstanding waterbodies in Schedule 25 of the decisions version of PC7 was identified by the PC7 IHP. The PC7 IHP considered the definition of 'outstanding', the Screening Criteria, information set out in submissions, as well as information provided as part of expert and lay evidence, to identify water bodies that qualified as outstanding.

4.2 PC7 limits outstanding values to cultural & spiritual, recreation, landscape, geology, natural character and ecology values. PC7 requires these values to be outstanding in a regional context.

- 4.3** An outstanding water body in PC7 is one that is truly exceptional or stands out from the rest. The definitions of ‘outstanding’ and ‘outstanding water body’ in PC7 are:

***Outstanding:** for the purposes of an outstanding water body: outstanding means conspicuous, eminent, and/or remarkable in the context of the Hawke’s Bay Region.*

***Outstanding water body** means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s).*

5. EVOLUTION OF THE PC7 OUTSTANDING WATER BODY IDENTIFICATION SCREENING CRITERIA

- 5.1** Detailed background information to PC7 is provided in the evidence of Ms Belinda Harper, however I consider it useful to summarise the process relating to the development of Outstanding Water Body Identification Screening Criteria in my evidence below.
- 5.2** Ms Harper has described the ‘pathway’ HBRC took in determining OWB within the Hawke’s Bay region.¹ I note that a number of submitters to PC7 stated that the approach undertaken by the HBRC in the proposed PC7 as notified was not clear, and noted significant confusion as to how the OWBs in Schedule 25 were selected, particularly given there was no set criteria as to what constituted an outstanding value. Submissions also requested that a set of criteria that can be used to identify outstanding water bodies across the region be included in PC7.
- 5.3** I also note at this point that a Local Expert Panel was appointed by HBRC to identify any outstanding characteristics of waterbodies nominated during phases 3 and 4 of the PC7 process. Their recommendations, together with subsequent feedback through an engagement process, the findings from the secondary assessments, and

¹ Section 5 of the evidence in chief of Ms Belinda Harper.

input from the Regional Planning Committee (RPC), resulted in 38 waterbodies being included in the notified version of PC7.

5.4 In response to submissions received on determining what constituted an outstanding value in the notified version of PC7 document, including the lack of clear criteria, the PC7 hearing Reporting officers recommended to the IHP that an OWB Identification Screening Framework be added to PC7 that uses *“clear and transparent criteria, consistent with the meaning of ‘outstanding water body’ and ‘outstanding’”*. The Reporting officers considered that this approach would provide *“clarity and certainty to plan readers and reduce potential for ad-hoc identification of OWB in future”*.²

5.5 The Reporting officers’ recommended screening criteria to be incorporated into PC7 was derived from a national project that involved the HBRC partnering with the Ministry for the Environment and Auckland Council in 2014 to further investigate the intent of the outstanding freshwater body provisions in the NPSFM and to develop a set of criteria and thresholds that could be used by regional and unitary councils to identify outstanding water bodies across New Zealand. One of the reports generated from this project was titled *“Water Conservation Order Review: Outstanding Values: Key Features”* and was authored by Ms Belinda Harper, one of the PC7 s42A Reporting officers, and who is presenting evidence at this hearing.

5.6 Work associated with that project included:

- (a) a review of all briefing papers, regulatory impact statements, cabinet papers, Section 32 evaluations and other relevant literature used to inform the development of the NPSFM’s OFWB provisions; and
- (b) a review of the WCO reports and recommendations released by various courts and tribunals, to identify common themes, factors and

2 Belinda Harper and Nichola Nicholson *Hawke’s Bay Regional Resource Management Plan: Proposed Plan Change 7 – Outstanding Water Bodies Officers’ s42A Hearing Report* (HBRC, 5520, October 2020) <https://www.hbrc.govt.nz/assets/Document-Library/Outstanding-Water-Bodies/Change-7-OWB-Section-42A-Hearing-Report.pdf> at [412].

characteristics of those water bodies with an outstanding status under a WCO.

- 5.7** I have reviewed the above reports and find them to be comprehensive and accurate in their findings and interpretation of the various WCOs hearings and decisions. I have relied on it in preparing this evidence but have also referred to the original hearings and decisions where necessary.
- 5.8** The IHP devoted a section of their decision report to the development of screening criteria for an OWB. The IHP observed that some of the proposed screening criteria were based on the language used to describe what has qualified as “*outstanding*” in national WCOs, including language such as “*conspicuous, eminent, especially because of its excellence*” and “*remarkable in*”.³
- 5.9** The IHP supported the definition of “*outstanding*” proposed in PC7 and the modified screening criteria recommended by the Reporting officers, but with some adjustments. In doing this, the IHP noted that much of the Local Expert Panel’s work relied on criteria that were “*...not strongly tied back to any legal precedents*”.⁴ They emphasised that a decision based on the Reporting officers’ recommended criteria should be supported and / or supplemented by additional information. They stated:

“Applying a set of criteria such as those listed in Table 3 above inevitably still involves some level of subjectivity. Such criteria cannot always be black and white, and there are several instances where we have had to exercise our best judgment in deciding what is an outstanding value of any given water body. Our approach has been that what is “outstanding” needs strong corroboration in submissions and/or evidence, and through the use of the screening criteria.”⁵

3 Dr Roger Maaka, Dr Brent Cowie, Christine Scott *Decision of the Independent Hearing Panel: Proposed Plan Change 7* (HBRC, June 2021) <https://www.hbrc.govt.nz/assets/Document-Library/Outstanding-Water-Bodies/Decision-of-the-Independent-Hearing-Panel-PC7.pdf> (“IHP Report”) at [3.56].

4 IHP Report, above n 3, at [3.48]

5 IHP Report, above n 3, at [3.69]

- 5.10** Schedule 25 (Outstanding Water Bodies) of the notified version of PC7 included Table 1 which provides an overview of outstanding value categories and their subparts. Table 1 listed those values that had been identified as outstanding for the purposes of giving effect to the outstanding freshwater bodies provisions set out in the NPSFM. The outstanding values listed in Table 1 are the same as those values listed within the definition of OWB in PC7. I note the key sub-values listed within Table 1 were included to help describe the outstanding values, but are not all inclusive.
- 5.11** The new screening criteria recommended by the Reporting officers and largely adopted by the IHP replaced Table 1 in Proposed PC7, which was deleted as a consequential amendment.
- 5.12** I note that passing the screening criteria does not automatically mean a water body is outstanding. That is, the criteria are used to screen water bodies as an initial step, following which the water bodies that meet those screening criteria are evaluated against the definition of OWB to determine which of them meet that definition. I anticipate that most waterbodies that meet the screening criteria will be considered to be outstanding, but it is important that those water bodies are also considered against the definition of “outstanding” to ensure that they are outstanding in the Hawke’s Bay regional context.
- 5.13** In summary, the IHP used a revised screening criteria, plus submissions, and expert and lay evidence to determine that 15 water bodies (or parts thereof) clearly qualified as OWB in the Hawke’s Bay Region. Further work carried out and evidence prepared as a part of the appeal process has resulted in further amendments to the screening criteria and further evidence provided has resulted in the addition of one OWB (Lake Poukawa and Pekapeka Swamp).

6. THE RELATIONSHIP BETWEEN WCOS AND OWBS

- 6.1** It is widely acknowledged that the NPSFM does not include or allude to a mandatory or approved methodology for the assessment and identification of OWBs. To some degree, this lack of strict direction enables the OWB process to be tailored to a particular region’s requirements. However, in my opinion, it is still

essential that the process takes into account the definitions of 'outstanding' and 'outstanding water bodies' and submissions and discussions through the PC7 process requesting a more prescriptive screening criteria.

- 6.2** Because the NPSFM does not include or allude to a mandatory or approved methodology for the assessment and identification of OWBs, the IHP had discretion on the approach it chose to identify OWBs for Change 7 purposes, albeit within scope of Change 7 and submissions received. The PC7 S42A report noted at paragraphs 58 and 59:

"The NPSFM stops short of stipulating exactly what constitutes an outstanding value, how the assessment and identification of outstanding water bodies should be undertaken, or whether the term 'outstanding' should be applied in a regional or national context.

While the NPSFM is ambiguous on whether an OWB assessment should be carried out in a regional or national context, it is generally accepted that given the NPSFM is designed to be implemented at a regional level, the corresponding outstanding assessments should also take place at a regional scale."

- 6.3** I consider the comments made in these two paragraphs by the Reporting Officers are important ones because they identify the opportunity for developing a process for identifying OWB at a regional level, but drawing on the principles and approaches used in national WCO processes for determining outstanding water bodies and outstanding values.

- 6.4** In some respects, determining OWB at a regional level might be seen as simply scaling down the assessment process to the region boundary. While in my opinion that seems a logical approach to take, there is also a need to bear in mind that the definitions of 'outstanding' and 'outstanding water bodies' are rigorous tests with a 'high bar'. For example, in the Mohaka River case, the Planning Tribunal agreed with the Mataura River WCO Planning Tribunal that that "*the test as to what is outstanding should be a reasonably rigorous test*" and went further to note that

*“before a characteristic or feature could quality as outstanding, it would need to be quite out of the ordinary on a national basis.”*⁶ In my opinion, there is no reason why that level of screening cannot be transferred to a regional scale. ‘Quite out of the ordinary’, in my opinion, implies a relatively limited number of water bodies might pass the tests for regional outstandingness.

7. DO THE PC7 CRITERIA ACCURATELY REFLECT WHAT HAS BEEN USED IN WCOS?

7.1 The screening criteria in Schedule 25 have been modified to be consistent with value categories having either two lists (List A and List B) or just one list (List A). Those values with two lists require that at least one of the list criteria/matters in List A is met and that all matters in List B are met. Those values where there is just one list require that all the matters/criteria listed under the list are met for screening purposes.

7.2 Regardless of whether a value has one or two lists of matters/criteria to consider, they all have a mandatory requirement that evidence is provided in support of outstanding features. In my opinion, this is entirely appropriate when considering information assessing something as important as determining an outstanding water body, regardless of whether it is in a national or regional context. This approach is consistent with the approach taken in assessing all WCOs that I have reviewed or been a part of.

8. VALUE SETS SUBJECT TO CHALLENGE

8.1 In this section of my evidence, I comment on the respective values, along with their associated screening criteria, in Part 1 of Schedule 25 of the HBRC’s preferred version of PC7 following mediation with appellants and internal discussions with other HBRC witnesses. I have provided these comments in the context of my understanding of what screening criteria have been used in WCOs. Comment on individual Schedule 25 values is preceded by tabling the value and relevant screening criteria, as set out in the Part 1 table of the HBRC preferred version of PC7 (as circulated on 13 July 2023). The changes HBRC has put forward post the

6 Page 49. Mohaka River WCO application. Report and recommendation of the Planning Tribunal.

PC7 decision are shown in ~~red strikethrough~~ and underline. I first discuss the value sets specifically subject to challenge in appeals, and then the remaining value sets in the proceeding section.

8.2 Ecology – Habitat for native aquatic birds

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Ecology	<p>Habitat for <u>native</u> aquatic birds (native and migratory)</p> <p>For a water body to provides an outstanding habitat for <u>native</u> aquatic birds where it <u>must</u> meet:</p> <ul style="list-style-type: none"> at least one matter in List A; and all matters in List B. <p>List A</p> <p>a) One of the highest regional populations of a native aquatic bird species which is endangered, threatened or distinctive¹.</p> <p>b) One of the highest natural diversity of aquatic birds (native and migratory) in the region, which includes endangered or threatened species.</p> <p>a) <u>A native aquatic bird assemblage that is regionally unique in terms of diversity, abundance, or distinctiveness.</u></p> <p>b) <u>Supports 5% or more of the national population of a particular native aquatic bird species listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List.</u></p> <p>List B</p> <p>a) <u>The aquatic bird habitat is reliant on the water body's flows or levels, other aquatic characteristics, or is an integral part of the water body.</u></p> <p>b) Evidence is provided in support of outstanding features.</p>	<p>International Union for Conservation of Nature (IUCN) criteria.</p> <p>RAMSAR site criteria reports.</p> <p>New Zealand threat classification system.</p> <p>IUCN red list.</p> <p>Expert evidence.</p>

~~¹For National Water Conservation Order purposes, at least 5% of the national population (Rangitata River 2004).~~

8.3 Past WCO considerations of outstandingness with respect to aquatic birds often include assessing whether the habitat is critical for rare, threatened or distinctive species, and what is the size or the proportion of the (national) population that the habitat supports⁷. Although the term 'unique' appears less used, I consider its reference in List A a) is not inconsistent with the terms 'rare' or 'distinctive'.

7 E.g., Rangitata River Water Conservation Order Application. Report by the Special Tribunal. 2002. *Report by a Special Tribunal Appointed by the Minister for the Environment to Consider an Application for a Water Conservation Order for the Oreti River* (Ministry for the Environment, November 2007) <https://environment.govt.nz/assets/Publications/Files/Report-by-a-Special-Tribunal-appointed-by-the-Minister-for-the-Environment-to-consider-an-application-for-a-water-conservation-order-for-the-Oreti-River.pdf>. Richard Fowler and others *Special Tribunal Recommendation Report on Application for Water Conservation Order – The Ngaruroro and Clive Rivers* (Environmental Protection Authority, August 2019) https://www.epa.govt.nz/assets/FileAPI/proposal/NSP000041/Boards-decision/WCO_Ngaruroro_and_Clive_Rivers_Recommendation_Report_Final_erratum_2019.10.04.pdf.

- 8.4** I note that List A b) has a requirement that the water body supports more than 5% of the national population of a particular aquatic bird species listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List. This population ‘threshold’ for threatened or at risk bird species (and fish species in some cases) has been used in WCOs (e.g., Rangitata and Ngaruroro rivers), although has been questioned as to whether it is an appropriate value to use in determining whether a species is outstanding in the recent Environment Court appeal to the Ngaruroro decision. My understanding of that Environment Court decision is that the 5% threshold was still used to consider the significance of aquatic bird habitat with respect to considering whether habitat is outstanding.
- 8.5** Some parties to these appeals have implied that such criteria set the bar too high for screening regional OWBs (e.g., Royal Forest and Bird Protection Society of New Zealand Incorporated⁸). While I agree that this criterion is a high bar, I do not consider it to be unreasonable given the definition of ‘Outstanding’ in PC7, the concepts of ‘reasonably rigorous’ and ‘out of the ordinary’, and the role of Schedule 25 as a screening tool. Further, having more than 5% of a national population of a species with the highest conservation concern (i.e., nationally critical, nationally endangered or nationally vulnerable species) as a consideration of whether a waterbody is outstanding is, in my opinion, reasonable in the context of determining whether a water body is an OWB at the regional scale when you consider the Hawke’s Bay region makes up approximately 5.8% of mainland Aotearoa/New Zealand.
- 8.6** Criteria that require some form of quantification, for example abundance (either density per unit area or numbers associated with a waterbody) or a proportion of a total population (e.g., the 5% or more criterion for a threatened species) typically would require expert evidence and/or demonstration of scientific survey in support of meeting the criterion, and so I support List B b) as being a mandatory criterion to be met as a part of the screening assessment.

8 Notice of Appeal by the Royal Forest and Bird Protection Society of New Zealand Incorporated, Dated 5 August 2021 <https://www.hbrc.govt.nz/assets/Uploads/Notice-of-Appeal-HBRC-PC7-Forest-Bird-FINAL.PDF>.

8.7 Ecology – Native fish habitat

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
	<p>Native fish habitat</p> <p>For a water body to provide an outstanding habitat for native fish where it must meet:</p> <ul style="list-style-type: none"> at least one matter in List A; and all matters in List B. <p>List A</p> <p>a) A unique species or distinctive assemblage of native fish not found anywhere else in the region.</p> <p>b) Native fish that are landlocked and not affected by presence of introduced species.</p> <p>c) One of the highest diversities of native fish species in the region, which includes a threatened, endangered or distinctive species.</p> <p>a) A native fish assemblage that is regionally unique in terms of diversity, abundance or distinctiveness.</p> <p>b) Supports more than 5% of the national population of a particular native fish species listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List.</p> <p>c) An outstanding customary fishery.</p> <p>List B</p> <p>a) Evidence is provided in support of outstanding native fish habitat value.</p>	<p>Waters of National Importance.</p> <p>New Zealand threat classification system.</p> <p>Expert evidence.</p>

8.8 WCOs that have addressed whether native fish habitat is outstanding have considered matters such as distinctive, unusual or unique characteristics, including population size (abundance⁹), species composition¹⁰ and diversity¹¹, genetic uniqueness¹², rarity, a lack of introduced species¹³ and geographic location¹⁴. Consequently, I consider List A a) is appropriately worded and emphasises the regional focus of the criteria (i.e., “regionally unique”).

8.9 I note that List A b) has a requirement that the water body supports more than 5% of the national population of a particular native fish species listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List. I note that while WCOs have not previously specified a 5%

9 e.g., Te Waihora/Lake Ellesmere, Buller River (Lake Rotoiti and Lake Rotoroa).

10 e.g., Buller River (tributaries of the Maruia River).

11 e.g., Buller River (upper Matiri River and Lake Matiri).

12 e.g., Nevis River (Kawarau River).

13 e.g., Buller River (upper Matiri and Lake Matiri).

14 e.g., Buller River (tributaries of the Maruia River).

threshold when discussing native fish they have considered whether a water body supports a significant population of a native fish species (e.g., Buller River WCO, Ellesmere / Te Waihora application to vary the WCO) and, in the case of Te Waihora / Lake Ellesmere, noted that it supported around 2% of the national annual longfin eel spawning population and provided for nearly 10% of the total national eel quota¹⁵. While neither longfin or shortfin eels have a threat classification of Nationally Critical, Nationally Endangered or Nationally Vulnerable, use of these high conservation classification criteria together with nominal 5% threshold for population size is, in my opinion, an appropriately rigorous screening criteria and, as noted in the evidence of Dr Hicks, is consistent with the aquatic birds screening criteria.

8.10 The requirement for a species to be listed as either Nationally Critical, Nationally Endangered or Nationally Vulnerable is, in my opinion, consistent with the approach used in some WCOs. For example, the report by the Special Tribunal for the Oreti River WCO application recognised the Oreti River as providing ‘very important’ habitat for both longfin eels and giant kōkopu, but concluded: *“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.”*¹⁶

8.11 Criteria that require some form or quantification, for example abundance (either density per unit area or numbers associated with a waterbody) or a proportion of the total population (e.g., the 5% or more criteria for threatened native fish) typically would require expert evidence and/or scientific investigation in support of meeting the criteria and so I support List B a) as being a mandatory criteria to be met as a part of the screening assessment. As such, I support the mandatory requirement for evidence to be provided in support of supporting an outstanding native fish habitat value.

15 Report of the Hearing Committee on an application to vary a national water conservation order for Lake Ellesmere/Te Waihora in Canterbury at 21.

16 Report by a Special Tribunal Appointed by the Minister for the Environment to Consider an Application for a Water Conservation Order for the Oreti River, above n 7, at 208.

8.12 Ecology – Habitat for indigenous plant communities

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Habitat for indigenous plant communities		
	<p><u>For a</u> water body <u>to</u> provide an outstanding habitat for an indigenous plant community <u>where</u> it <u>must</u> meet:</p> <ul style="list-style-type: none"> • at least one matter in List A; and • all matters in List B. <p>List A</p> <p>a) The indigenous plant community has a high diversity of habitats, or rare and threatened plant species in the region.</p> <p>b) The indigenous plant community contains special features not found anywhere else in the region.</p> <p>a) <u>The indigenous plant community contains special features not found anywhere else in the region</u></p> <p>b) <u>Supports one of the highest numbers of a national population of a particular indigenous plant species listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List.</u></p> <p>List B</p> <p>a) The indigenous plant community is reliant on the river flows, other aquatic characteristics, or is an integral part of the water body.</p> <p>b) Evidence is provided in support of outstanding features.</p>	<p>New Zealand Geopreservation Inventory. Protected Natural Area (PNA) surveys. New Zealand threat classification system. Expert evidence.</p>

8.13 I find the matters listed in A and B for habitat for indigenous plant communities are consistent with findings in WCOs when determining whether a water body has outstanding habitat for indigenous plant communities. Matters, such as high plant diversity and rare or uncommon species or communities, are often considered in WCO determinations. The reliance of the plant community on the physical relationship with water is clearly an important consideration if the water body itself is to be found to be outstanding on the basis of that plant community, and while ‘river flows’ is specifically listed in List B of the PC7 Schedule 25, I note that some WCO decisions also consider ‘water level’ as being an important matter for consideration, particularly in relation to lakes¹⁷ and may also be appropriate for inclusion in this set of screening criteria.

¹⁷ e.g., Te Waihora / Lake Ellesmere.

8.14 List B has two matters and both have to meet the screening criteria. Matter b) is ‘Evidence is provided in support of outstanding features’. This requirement is clearly a common feature in WCO considerations and there is often a heavy reliance on expert evidence particularly in relation to ecological and physical environment considerations.

8.15 Following on from that, the list of ‘evidential sources’ listed in the right hand column of the Schedule, including reliance on expert evidence, have been used in WCO inquiries, and I consider them to be appropriate also. I note that the evidential source column in Schedule 25 does not limit reliance on sources of evidence to those listed.

8.16 Ecology – Habitat for above ground ecology values not otherwise provided for in the screening criteria

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
	<p><u>Habitat for above ground ecology values not otherwise provided for in the screening criteria</u></p> <p><u>For a water body to provide an outstanding habitat for above ground ecology values it must meet:</u></p> <ul style="list-style-type: none"> • <u>at least one matter in List A; and</u> • <u>all matters in List B.</u> <p><u>List A</u></p> <ul style="list-style-type: none"> a) <u>The ecosystem contains distinctive aquatic features not found anywhere else in the region.</u> b) <u>Supports one of the highest numbers of a national population of a particular indigenous taxa listed as Nationally Critical, Nationally Endangered or Nationally Vulnerable on the New Zealand Threat Classification List.</u> <p><u>List B</u></p> <ul style="list-style-type: none"> a) <u>The ecosystem is above ground and reliant on the water body’s flows or levels, other aquatic characteristics, or is an integral part of the water body.</u> b) <u>Evidence is provided in support of outstanding values.</u> 	<p><u>New Zealand threat classification system.</u></p> <p><u>Expert evidence.</u></p>

8.17 This category, which covers a set of general ecology values not covered by more specific categories, was not included in the IHP decision, but has been included in the HBRC preferred Schedule following mediation. It specifically addresses surface waterbodies (i.e., lakes, rivers, wetlands) and not aquifer systems (karsts or subterranean waters). I support its inclusion in Schedule 25 given other screening criteria for specific fauna may potentially miss some taxa.

8.18 In my opinion, there is nothing particularly contentious with this additional category and it is consistent in its approach for setting thresholds for screening regional outstandingness. In some respects, it can be considered to be a ‘catch-all’ category that picks up an ecological habitat, ecosystem or species that may otherwise not be picked up by the other, more specific, values and associated ecological screening criteria. As Dr Hicks noted in his evidence, water bodies provide habitat for more than just fish, birds and plants, including, for example, Nationally Critical, Nationally Endangered or Nationally Vulnerable invertebrate fauna. The inclusion of the criterion ‘The ecosystem contains distinctive aquatic features not found anywhere else in the region.’ in List A a) is appropriate and necessary in my opinion to provide an appropriate degree of rigour when screening for outstandingness.

8.19 Ecology – Habitat for trout and salmon

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following ⁴⁹
	<p>Habitat for trout and salmon</p> <p>Water body provides an outstanding habitat for trout and salmon where it meets all matters in List A.</p> <p>List A</p> <p>a) Has an outstanding angling amenity, or is critical to maintaining an outstanding angling amenity elsewhere in the catchment.</p> <p>b) Supports a self-sustaining population of wild trout or salmon (i.e. fish population not periodically restocked from hatcheries).</p> <p>c) Evidence is provided in support of outstanding features.</p>	<p>Waters of National Importance.</p> <p>Headwater trout fisheries (NIWA).</p> <p>Expert evidence.</p>

~~Evidence sources include but are not limited to those listed.~~

8.20 This category was included in the IHP’s decision, but was deleted in the HBRC’s preferred version of PC7 following further consideration and discussion. It is my understanding that a key reason for the change is because having two category / value sets for angling was found to be confusing, and that it would be clearer to have just one value set that refers to angling amenity.

8.21 The intent of the framework and PC7 is to identify those water bodies which have an outstanding feature, not to identify other water bodies which are important

towards maintaining an outstanding feature. This understanding is consistent with the definition of OWB in both the NPSFM and PC7. For the trout and salmon category as presented in notified PC7, a water body (e.g., a tributary) could be considered 'outstanding' for this value set without having the outstanding feature itself. This approach is inconsistent with the way other value sets have been dealt with. That is, the criteria referred to the habitat being critical to maintaining an outstanding angling amenity elsewhere in the catchment. I am comfortable with the removal of this value set and, as I discuss below, with the modifications to the angling amenity value set.

8.22 Recreation – Angling amenity

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Recreation	<p>Angling amenity (trout and salmon)</p> <p>For a water body to provides an outstanding <u>angling recreational fishing</u> experience (angling amenity) where it must meets:</p> <ul style="list-style-type: none"> • at least one matter in List A; and • at least one matter in List B; and • all matters in List <u>B C</u>. <p>List A</p> <ol style="list-style-type: none"> a) <u>Highest numbers of</u> trophy <u>sized</u> trout (over 4 kg in size) <u>in the region</u>. b) <u>Highest</u> numbers of large trout (water body supports the highest number of large trout in the region). c) High numbers of trout (water body supports the Highest trout numbers in the region or the highest trout biomass in the region). <p>List B</p> <ol style="list-style-type: none"> a) Variety of high quality angling experiences. b) Specialised high quality angling experience (scenic, solitude, challenging, high catch rate, ability to spot and fish to a particular trout). <p>List <u>B - C</u></p> <ol style="list-style-type: none"> a) <u>The water body has a variety of high quality angling experiences OR a specialised high quality angling experience.</u> b) Wild trout fishery (self-sustaining trout population through natural replacement <u>i.e. fish population is not periodically restocked from hatcheries</u>). c) <u>Anglers can access the</u> water body is accessible and <u>it is</u> suitable to fish <u>in</u> (high water quality and suitable flows). d) <u>The water body has a</u> 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). 	<p>National Angling Survey. Published activity guides. User surveys. Headwater trout fisheries (NIWA). Testimonies from anglers. National Inventory of Wild and Scenic River. Expert evidence.</p>

e) Evidence is provided in support of outstanding ~~recreational~~ angling experience.

8.23 Although the ‘Angling amenity’ value set proceeds the ‘Cultural and spiritual’ value set in Schedule 25, I thought it was appropriate to consider it next in my evidence given the previous section addressed trout and salmon habitat.

8.24 As noted above, the trout and salmon habitat value set has been deleted and I am of the opinion that this is appropriate and avoids potential overlap and / or duplication of criteria with respect to the angling experience. I find the matters to address in this values set are broadly consistent with those considered in WCOs when considering the concept of outstandingness.

8.25 My reading of WCO decisions relating to angling is that they frequently rely on information relating to fish abundance, in particular the abundance of large and exceptionally large fish (trophy fish), catch rate, the physical environment (including surrounding landscape, accessibility and water quality)¹⁸. Reputation, including national and international, is also a consideration¹⁹.

8.26 I support the inclusion of using these screening criteria for regional OWBs when considering angling amenity. Trout in particular, are quite ubiquitous throughout most of Aotearoa/New Zealand, and a waterbody’s significance as an outstanding angling amenity should, in my opinion, have a high bar to meet, and the wording in HBRC’s version of Schedule 25 provides for this.

8.27 Cultural and spiritual (tāngata whenua)

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Cultural and spiritual (tāngata whenua)		

18 e.g., Oreti River WCO.
 19 e.g., Maitāra River WCO.

Cultural and spiritual (tāngata whenua)	<p>For a water body to provide outstanding cultural and spiritual values where it must meet all matters in List A.</p> <p>List A</p> <p>a) The features are of outstanding value to wider iwi and hapu groups acknowledged as having conspicuous, eminent, and/or remarkable cultural and spiritual values in the context of the <u>Hawke's Bay</u> region.</p> <p>b) The features are acknowledged as outstanding, <u>in accordance with 20ea o Māori values, mātauranga Māori, and tikanga</u> by the descendant groups most closely associated with the water body.</p> <p>c) Evidence is provided in support of outstanding features.</p>	<p>Waitangi Tribunal Reports.</p> <p>Statutory acknowledgements.</p> <p>Statements provided from Iwi members.</p> <p>Expert evidence.</p> <p>Deeds of settlement, Customary uses reports.</p> <p>Court cases.</p>
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8.28 Screening criteria for cultural and spiritual values that may qualify for outstandingness is an area that I am reluctant to comment on given my lack of expertise in this area, and I defer to the evidence of Mr Coffin on this issue. However, I will note that there have been findings on cultural significance in WCO determinations. For example, the Special Tribunal for a WCO application for Te Waikoropupū Springs wrote that it “...is aware that, for a waterbody to be considered outstanding in accordance with tikanga Māori, the waterbody in question would be required to be acknowledged as outstanding, by the descent groups, namely whānau, hapū and iwi, most closely identified and associated with the waterbody.”²⁰ That Tribunal went on to make the finding: “From the evidence of all witnesses there can be no doubt that the aquifer and characteristics that it contributes to are of outstanding significance in accordance with tikanga Māori, as per section 199(2)(c) of the RMA.”²¹ Consequently, I consider that the amended wording for cultural and spiritual values is consistent with criteria used in WCO determinations, and I support Mr Coffin’s suggested amendments.

8.29 Recreation – Rafting, Kayaking (including canoeing) and Jet boating

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Recreation	Rafting	

20 Paragraph 143, Special Tribunal Recommendation Report on Application for WCO: Te Waikoropupū Springs and associated water bodies.

21 Paragraph 168, Special Tribunal Recommendation Report on Application for WCO: Te Waikoropupū Springs and associated water bodies.

<p>For a water body to provides an outstanding rafting experience (amenity) where it <u>must</u> meet:</p> <ul style="list-style-type: none"> at least one matter in List A; and all matters in List B. <p>List A</p> <ol style="list-style-type: none"> Variety of high quality rafting experiences found in few other water bodies in the region. A specialised high quality rafting experience found in few other water bodies in the region. <p>List B</p> <ol style="list-style-type: none"> 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). <u>The water body has</u> regional, national or international significance as an exceptional rafting experience. <u>The water body has</u> high non-local usage (high numbers of participants come from outside of the area). Evidence is provided in support of an outstanding rafting experience. 	<p>1991 River Use Survey. New Zealand Recreational River Survey.</p> <p>Published activity guides. User surveys. Testimonies from rafters and their local or national associations. Expert evidence.</p>
Kayaking (includes canoeing)	
<p>For a water body to provides an outstanding kayaking experience (amenity) where it <u>must</u> meet:</p> <ul style="list-style-type: none"> at least one matter in List A; and all matters in List B. <p>List A</p> <ol style="list-style-type: none"> Variety of high quality kayaking experiences found in few other water bodies in the region. A specialised high quality kayaking experience found in few other water bodies in the region. <p>List B</p> <ol style="list-style-type: none"> 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). <u>The water body has</u> regional, national or international significance as an exceptional kayaking experience. <u>The water body has</u> high non-local usage (high numbers of participants come from outside of the area). Evidence is provided in support of an outstanding kayaking experience. 	<p>1991 River Use Survey. New Zealand Recreational River Survey. New Zealand Whitewater: 120 Great Kayaking Runs.</p> <p>Published activity guides. User surveys. Testimonies from kayakers and their local or national associations. Expert evidence.</p>
Jet boating	
<p>For a water body to provides an outstanding jet boating experience (amenity) where it <u>must</u> meet:</p> <ul style="list-style-type: none"> at least one matter in List A; and all matters in List B. <p>List A</p> <ol style="list-style-type: none"> Variety of high quality jet boating experiences found in few other water bodies in the region. A specialised high quality jet boating experience found in few other water bodies in the region. 	<p>New Zealand Recreational River Survey.</p> <p>Published activity guides. User surveys. Testimonies from jet boaters and their local or national associations.</p>

List B	<ul style="list-style-type: none"> a) 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). b) <u>The water body has</u> regional, national or international significance as an exceptional jet boating experience. c) <u>The water body has</u> high non-local usage (high numbers of participants come from outside of the area). d) Evidence is provided in support of an outstanding jet boating experience. 	Expert evidence.
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8.30 There is nothing in the Schedule 25 criteria for assessing the potential outstandingness of a water body for rafting, kayaking or jet boating that has not been previously considered in WCO applications. The screening approach in Schedule 25 is, in my opinion, reasonable, and the terminology used is in line with what would be expected to be assessed when considering a waterbody as a regional OWB. The terminology used in the criteria (e.g., ‘high quality [experience] found in few other water bodies in the region’) in my opinion provide an appropriate level of rigor for screening to determine outstandingness. The mandatory requirement to meet all four criteria in List B also means that for a waterbody to be considered to be outstanding for either rafting, kayaking or jet boating, it would need to be quite out of the ordinary on a regional basis.

8.31 Natural Character

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Natural Character	<p style="text-align: center;">Natural Character</p> <p><u>For a</u> water body <u>to have has</u> outstanding natural character values <u>where it must</u> meets all matters in List A.</p> <p>List A</p> <ul style="list-style-type: none"> a) The water body is highly natural with little or no human modification, including to the flow, bed and riparian margins, water quality, flora and fauna, within a largely indigenous landscape. b) The natural character values are conspicuous, eminent and/or remarkable in the context of the Hawke’s Bay Region. c) Evidence is provided in support of outstanding natural character values by way of an expert assessment or independent evidence sources. 	Expert evidence

8.32 The 'Natural character' value set was added to the screening framework in Schedule 25 after the Community Environmental Fund Outstanding Freshwater Bodies Project (**CEF OFWB Project**) was completed, and was included in the proposed PC7 at notification. The PC7 Reporting officers recommended that for the natural character value set, *"that the criteria used by the Local Expert Panel is included in the OWB screening framework, together with relevant parts of the definition of 'outstanding'"*.

8.33 Natural character is specifically mentioned in the PC7 definition of 'Outstanding water body', however the term 'natural character' is not defined in the RMA or the NPSFM. The New Zealand Coastal Policy Statement 2010 refers to 'outstanding natural character' in relation to the coastal environment but does not define the term. The section 32 Evaluation Report for PC7 states *"The term natural character is used to describe the naturalness of environments. Generally, the highest degree of natural character (the greatest naturalness) occurs where there is least modification to the ecosystems and landscape."*

8.34 The Local Expert Panel defined the criteria for outstanding 'natural character' as *"A water body that is highly natural with little or no human modification, including to the flow, bed and riparian margins, water quality, flora and fauna, within a largely indigenous landscape"*. This forms List A a) and the relevant parts of the definition of 'outstanding' form List A b).

8.35 The Local Expert Panel definition is broadly consistent with that used in WCO determinations and other planning processes, and along with the other three mandatory matters to be met, provides for an appropriate set of screening criteria, in my opinion.

9. VALUE SETS NOT SUBJECT TO CHALLENGE

9.1 My understanding is that no parties seek changes to these value sets. However, I have included a discussion on them for completeness.

9.2 Landscape – Wild and scenic

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Landscape	<p>Wild and scenic</p> <p>For a water body to have outstanding wild and/or scenic values where it must meet all matters in List A.</p> <p>List A</p> <ul style="list-style-type: none"> a) Waters are an essential component of the landscape. b) 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. c) Evidence is provided in support of outstanding wild or scenic values by way of an expert assessment or independent evidence sources. 	<p>A National Inventory of Wild and Scenic Rivers.</p> <p>A list of rivers and lakes deserving protection in a schedule of protected waters.</p> <p>64 New Zealand Rivers: a scenic evaluation.</p> <p>New Zealand Recreational Survey and the National Inventory of Wild and Scenic Rivers.</p> <p>Expert evidence.</p>

9.3 Section 2 of Part 9 of the RMA (Water Conservation Orders) states that a water conservation order may provide for any of the following, and includes (b) “*the protection of characteristics which any water body has or contributes to, and which are considered to be outstanding,—*” and 2(b)(iii) “*for its wild, scenic, or other natural characteristics*”.

9.4 ‘Wild and scenic’ has been considered in a number of WCOs (e.g., Kawarau River Environment Court – Nevis River June 2013, Ngaruroro and Clive Rivers Environment Court 2022, Oreti Water Conservation Order Special Tribunal Nov 2007, Te Waikoropupu Springs Special Tribunal 2020). It is appropriate, in my opinion, that it is included as screening criteria in Schedule 25, but framed within a regional context.

9.5 There appear to be no agreed interpretations among experts of what ‘wild’ and ‘scenic’ mean in the context of determining outstandingness. This was considered in some detail in the Environment Court hearing into the Special Tribunal Report 2010 on an application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River. It was noted in that decision that experts varied widely in their interpretation of ‘wild and scenic’, with one focusing too much on the characteristics of the waters of the water body (Nevis River), rather than on the

river and its margins, while the other expert went “*even further the other way*”, and tended to look at the wider landscape which included the Nevis River²².

9.6 The RMA gives no assistance about the meaning of ‘wild’ and ‘scenic’, and while experts may differ in the interpretation of these values with respect to water bodies, I consider it still appropriate that the screening criteria includes a mandatory requirement for expert evidence in support of assessing outstanding wild or scenic values.

9.7 **Karst system / subterranean waters**

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Karst system / subterranean waters	<p data-bbox="582 904 906 931">Karst system / subterranean waters</p> <p data-bbox="569 1003 1086 1088"><u>For a karst system and/or subterranean waters is-to have outstanding values where it must meet: the following is met:</u></p> <ul data-bbox="569 1099 906 1160" style="list-style-type: none"> • at least one matter in List A; and • all matters in List B. <p data-bbox="569 1171 627 1193">List A</p> <ol data-bbox="587 1205 1094 1417" style="list-style-type: none"> a) A specialised high quality experience present in few other water bodies in the region. b) Wild and/or scenic values that contain distinctive qualities which ‘stand out’ and are present in few other water bodies in the region. c) Unique or unusual scientific or ecological values present in few other water bodies in the region. <p data-bbox="569 1429 627 1451">List B</p> <ol data-bbox="587 1462 1094 1574" style="list-style-type: none"> a) International or national reputation and/or high non-local usage. b) Evidence is provided in support of outstanding values. 	<p data-bbox="1121 1003 1393 1093">New Zealand Geopreservation Inventory. Expert evidence.</p>

9.8 Karst systems / subterranean waters are waterbodies that lie below the ground. Their inclusion in Schedule 25 as a distinct value recognises their unique features and characteristics that are quite different from surface waterbodies, and they have received particular attention in national WCO hearings (Motueka River, Buller

22 Paragraph 72, Environment Court hearing into the Special Tribunal Report 2010 on an application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River.

River and Te Waikoropupū Springs). It is appropriate in my opinion that they have their own screening criteria.

9.9 In the Te Waikoropupū Springs WCO, one expert stated that the biodiversity of the Te Waikoropupū Springs basin is considered nationally and internationally significant because of its high faunal diversity and its unusual associations of plants. The Special Tribunal for that hearing accepted that the waters of Te Waikoropupū Springs (and Fish Springs), including the Arthur Marble Acquirer, were outstanding for their intrinsic values²³. That Tribunal also found that the Arthur Marble Acquirer and the waters that feed in to it to be outstanding and worthy of protection for scientific and ecological values as well as habitat values²⁴

9.10 Karst systems / subterranean waters have been valued for their biological and physical characteristics as well as their amenity value and scientific qualities. Reference to international or national and / or high non-local usage may, at first glance, imply this value relates just to recreational amenity value, however I note that WCO findings include reference to ‘reputation’ in relation to both recreational and scientific features or values. The Tribunal for Te Waikoropupū Springs found they were outstanding in terms of their natural characteristics including the karst geology/aquifer system. The draft Motueka River WCO order 1991 noted *“outstanding underground cave (karst) systems providing high hydro-geological, scientific and recreational values, contained within the Mount Arthur and Mount Owen massifs”*. Consequently, I am comfortable with the proposed screening criteria in Schedule 25 for karst systems and subterranean waters.

9.11 Geology

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following
Geology	Geology	

23 Paragraph 138. Special Tribunal Recommendation Report on Application for WCO: Te Waikoropupū Springs and associated water bodies.

24 Paragraph 216. Special Tribunal Recommendation Report on Application for WCO: Te Waikoropupū Springs and associated water bodies.

<p>For a water body to have has outstanding geology values where it must meets all matters in List A.</p> <p>List A</p> <ul style="list-style-type: none"> a) The geomorphological, geological or hydrological feature is dependent on the water body's condition and functioning. b) The geology values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region. c) The geomorphological, geological or hydrological feature is classified as Class A on the New Zealand Geopreservation Inventory. d) Evidence is provided in support of outstanding geology values by way of an expert assessment or independent evidence sources. 	<p>New Zealand Geopreservation Inventory. Expert evidence.</p>
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9.12 'The 'Geology' value set was added to the screening framework in Schedule 25 after the CEF OFWB Project was completed, and was included in the proposed PC7 at notification. The PC7 Reporting officers recommended that for the geology value set, the description used in Table 1 Schedule 25 is included in the OWB framework, together with relevant parts of the definition of 'outstanding'.²⁵

9.13 Geology is specifically mentioned in the PC7 definition of 'Outstanding water body'.

9.14 This value set includes those geological features dependant on water bodies such as caves, karsts and gorges, and is relevant to landscape, scenic and scientific values. PC7 Reporting officers recommended that the outstanding category of 'geology' is retained as notified in PC7 and the IHP did this.

9.15 The geology value has not been appealed and I consider it appropriate to retain this category. I am not an expert in geology, however, I am aware of WCO decisions where geological features, including geology and hydrogeology, have been considered when determining whether a water body is outstanding, particularly in relation to karst geology. For example, there was extensive reference to karst geology in the WCO for Te Waikoropupū Springs, and the Buller WCO (1996) referenced geological features in relation to karst systems, but did not find water bodies within this catchment to be outstanding based on geology.

²⁵ Paragraph 418 of the s42A report.

9.16 The criteria or indicators associated with this value appears to me to be reasonably consistent with what has been considered in WCO inquiries, and the fact that all four criteria have to be met in my opinion sets an appropriate bar for screening a water body for outstandingness.

10. CONCLUSION

10.1 In my opinion, the screening criteria and associated methodology proposed in the HBRC version of PC7 is appropriate for screening regional water bodies for outstandingness and is generally consistent across all the value sets to be considered. It provides a much greater level of transparency in decision making, based on established tests for 'outstandingness' as set out in water conservation order decisions where relevant. The inclusion/requirement in the screening criteria to provide evidence in support of determining outstanding features provides, in my opinion, an important additional level of scrutiny.



Dr Greg Ryder

Date: 11 August 2023

APPENDIX A: WCO DECISIONS REFERRED TO IN MY EVIDENCE

Decision of the Tribunal. 1990. Mohaka River - National Water Conservation Order Application.

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

Report of the National Water and Soil Conservation Authority Committee. 1986. Mataura River - National Water Conservation Order Application.

Report and Recommendation of the Planning Tribunal. 1990. Inquiry into the Draft National Water Conservation Order (Mataura River).

Report by the Special Tribunal. 2002. Water Conservation Order Application-Rangitata River.

Report by a Special Tribunal. 2007. Application for a Water Conservation Order for the Oreti River.

Special Tribunal Recommendation Report. 2019. Application for Water Conservation Order - The Ngaruroro and Clive Rivers.

The Hearing Committee's Recommendation. 2011. Application to Vary the National Water Conservation (Lake Ellesmere) Order 1990.

Decision of the Tribunal. 1989. Buller River - National Water Conservation Order Application.

Report and Recommendation of the Planning Tribunal. 1996. Inquiry into the National Water Conservation Order for the Buller River.

Report of the Special Tribunal. 2010. Application to amend the Water Conservation (Kawarau) Order 1997 in respect of the Nevis River.

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.

Special Tribunal Recommendation Report. 2020. Application for Water Conservation Order Te Waikoropupū Springs and associated water bodies.

Decision of the Tribunal. 1991. Motueka River - National Water Conservation Order Application.