

Motueka River Water Conservation Order

What is it, why and what effect has it?

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What is a Water Conservation Order?

Part 9 RMA (s 199-217); a **law within a law** as its purpose is not subject to the 'sustainable management purpose of the RMA'

The purpose of a water conservation order (**WCO**) is to **recognise and sustain—**

(a) **outstanding amenity or intrinsic values** which are afforded by waters in their **natural state**:

(b) where waters are no longer in their natural state, the amenity or intrinsic values of those waters which in themselves **warrant protection** because they are considered **outstanding**.



What is a WCO?

A water conservation order may provide for any of the following:

(a) the **preservation** as far as possible **in its natural state** of any **water body** that is considered to be **outstanding**:

(b) the **protection of characteristics** which any **water body has or contributes to**, and which are **considered to be outstanding**,—

(i) as a **habitat** for terrestrial or aquatic organisms:

(ii) as a **fishery**:

(iii) for its **wild, scenic, or other natural characteristics**:

(iv) for **scientific and ecological** values:

(v) for **recreational, historical, spiritual, or cultural** purposes:

(c) 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 Māori**.



What does a WCO do/not do?

Are there one or more **outstanding** freshwater features in a freshwater body, or that **contribute to** an outstanding feature?

If so, either; **preserve** that reach of the river (ie no taking, use or discharge of water, damming, or change to river form), **or**

Protect the features which ensure the feature will remain outstanding.

Specify details of **what** is outstanding, **where**, and **how** to sustain it



What is the process?

Applicant applies to the Minister for the Environment, who may appoint a **Special Tribunal** to publicise an application, call for submissions and hear the applicant and submitters in support or opposition.



Special Tribunal recommends a **decision to the Minister for the Environment**, which can be appealed to the Environment Court.



Appeals are heard, and the Environment Court recommends whether to make an Order; which can be appealed on points of law.



If recommended, the Order is **approved and gazetted** by the Minister.

Motueka WCO



Nelson Acclimatisation Society applied c. 1989; taken on by Fish & Game after it was formed in 1990.



The initial hearing was in about 1992, with DOC and Fish & Game as the main proponents, with concerns from some irrigators, forestry and farming interests. TDC took a neutral stance; seeking to have a workable WCO.



The Environment Court hearing only took an hour, with matters agreed between parties.

Motueka WCO

- **Brown trout fishery – Protection Order**
- Motueka mainstem from Wangapeka to Shaggery Rivers and Wangapeka mainstem
 - **No damming,**
 - High proportion of **natural flows,**
 - **Water quality** (clarity, turbidity, temperature, pH, limiting undesirable biological growths, maintain human health from consumption of fish, faecal bacterial contamination, dissolved oxygen),
 - Maintain **river form,**
 - Limits deposition of **fine sediment** on the river-bed and
 - maintain **fish passage**
- Contribution of various Motueka River tributaries as **trout spawning/rearing habitats**
 - (Upper Motueka River mainstem, Motupiko River, Tadmor River, parts of the Stanley Brook, Dove, Pearse, Graham, Pokororo and Little Pokororo Rivers: Protected)

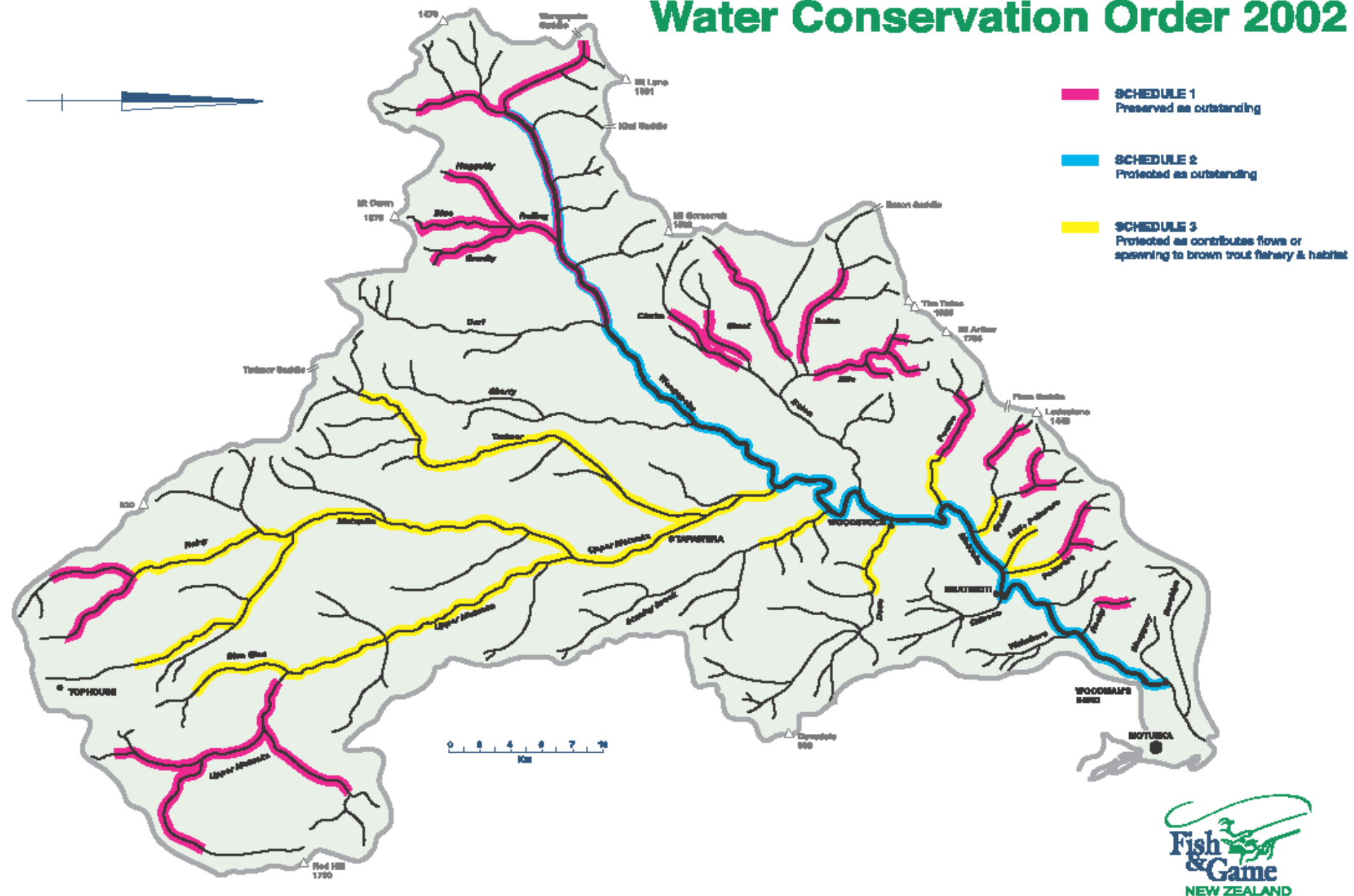




Motueka WCO – other outstanding features

- **Whio habitat** in the upper Motueka and Wangapeka, Rolling and Skeet Rivers
- **Karst system** in Mts Owen and Arthur areas (Pearse, Ellis, Graham, Granity, Blue and Nuggetty Creeks: Preserved)
- **Wild and Scenic landscape** features in public conservation land in the upper Motueka River Gorge, upper Rainy River, upper Dart River, upper Baton River, Pearse River, Graham River, Pokororo River and Rocky River (Preserved)

Water Conservation Order 2002



What does WCO not do?

Takes can exceed limits if from a water augmentation scheme.

Water can be used for domestic purposes, stock water or firefighting, or in an emergency.

Minor water use or discharge for public conservation land use, or for research, is allowed.

Construction or maintenance of fords, bridges, roads, river management for flood control is allowed.

Water uses granted before the Order is made continue, but not on expiry.

Exemptions can be granted, if not compromising the outstanding features.





How does a WCO affect consenting?



Consents **cannot be granted if contrary** to any provision in a WCO, including their cumulative effects.

Where consents are granted, they shall **ensure that the provisions of the WCO are maintained.**



What have been the consequences of the WCO for the Motueka?



Debate about key issues in
the community



Better integrated resource
management planning



Motueka Integrated
Catchment Management
Research process

Recent flood events and the WCO

River/flood management has carried on with the WCO

A design approach allowing the river to carry high flows requires a realistic assessment of what activities are at risk of floods

Floods are an unavoidable reality of all rivers; with climate change we can expect bigger floods more often, and in different places

Pros

Robust, independent process

Preserves or protects outstanding scenic, scientific, biodiversity, cultural, recreational and tourism appeal of the water body

Ensures **clean, clear, and flowing water** for future generations

Safeguards **habitat** for native species like **whio** (blue duck) and others like **brown trout** (as a fishery) (not the species per se)

Recognises **cultural, scientific and recreational values**, including Māori significance and fishing

Can be **integrated** with regional water plans (eg TRMP)

Endures until changed; not routinely reviewed

Cons

Requires a **champion** to apply

Not representative; doesn't cover all catchment or sea

Seldom supported by regional councils, as they don't decide, but must implement, the outcome. Potential friction between a Council and WCO proponents.

Limits water takes for irrigation, farming, and other uses

Can **restrict development or new infrastructure** projects

May be seen as **rigid or inflexible**, hard to update once in place

Lengthy and **costly to create or modify** through legal processes (but agreed technical changes are easier)

Can **reveal tension** between environmental and economic priorities

Further Reading on WCOs and Motueka WCO

- https://www.legislation.govt.nz/regulation/public/2004/0258/latest/DLM280920.html?search=qs_act%40bill%40regulation%40deemedreg_Motueka+River+water+conservation+order_resele_25_h&p=1&sr=1
- **NZCA** (2011) Protecting NZ's Rivers
- **Catherine Knight** (2016) NZ Rivers – An Environmental History
- **David Young** (2013) Rivers