



20-D-01738

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your email of 8 September 2020 requesting the following under the Official Information Act 1982 (the Act):

All information held by MfE relating to the assessment of the 38 Rivers Application, and any decision made on the 38 Rivers Application

The Ministry for the Environment has identified 12 documents, and five attachments, in scope of your request, as listed in the attached document schedule. Some information within these documents has been redacted as out of scope of your request, or withheld under the following sections of the Act:

- 9(2)(a) to protect the privacy of natural persons; and
- 9(2)(h) to maintain legal professional privilege.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

Where in scope information is contained within a lengthy document, I have provided you with an excerpt as per section (16)(1)(e) of the Act.

I understand that my colleague, Annabelle Ellis, wrote to your client on 30 April 2020, to notify them that their Water Conservation Order application for 38 rivers on the West Coast was not processed to the point where it was either accepted or declined. The application has not been reviewed by the current Minister for the Environment. Your client is welcome to instruct us to proceed with their current application. Should your client choose to do so, the Ministry for the Environment is able to offer guidance on the more detailed information that we would require in order to proceed with their application.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response

has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz

Yours sincerely



Hayden Johnston
Director, Water and Land Use Policy

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Document schedule

No.	Date	Content	Decision	OIA Section/s applied (if withholding information)	Reason for withholding	Other significant details
1	29 March 2017	FW Water conservation order process	Release in part	s9(2)(a)	To protect the privacy of natural persons	Attachments "image001.png", "image002.png", "image003.png", "Image004.png" and "image005.png" are email signature images.
1.1	29 March 2017	BulkPaymentDetails-7.pdf	Release in part	s9(2)(a)	To protect the privacy of natural persons	
1.2	29 March 2017	Final Water Conservation Order.pdf	Release in part	s9(2)(a)	To protect the privacy of natural persons	Note that this document is a letter with six appendices attached. WEGC posted this WCO application in its entirety on their website.
2	12 April 2017	RE Advice on application for a WCO over 38 rivers on the West Coast and in Southland (legally privileged)	Release in full	N/A	N/A	Attachments "image001.png", "image002.png", "image003.png", "Image004.png" are email signature images.
2.1	12 April 2017	WCO advice.doc	Withhold in full	s9(2)(h)	To maintain legal professional privilege	
3	23 May 2017	RE Two new water conservation order applications	Release in full	N/A	All in scope information has been released. Out of scope information has been redacted.	Attachments "image001.png", "image002.png", "image003.png", "Image004.png", "image005.png", "image006.png" and "image007.png" are email signature images.
4	23 May 2017	FW Two new water conservation order applications	Release in part	S9(2)(a)/s16(1)(e)	To protect the privacy of natural persons / Relevant excerpts have been provided	Attachments "image001.png", "image002.png", "image003.png" are email signature images.
5	29 May 2017	Water Conservation Order application for 38 rivers on the West Coast	Release in part	s9(2)(h)	To maintain legal professional privilege	

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6	31 May 2017	West Coast Rivers WCO application	Release in part	s9(2)(a)	To protect the privacy of natural persons	
7	7 June 2017	RE Minister Smith feedback from Status	Release in full	N/A	All in scope information has been released. Out of scope information has been redacted.	The link to the draft letter has been treated as an attachment, and appears as document 7.1 in this table.
7.1	7 June 2017	West Coast WCO Rejection letter	Release in part	s9(2)(a)	To protect the privacy of natural persons / Out of scope of this request	N/A
8	14 June 2017	Item for Status	Release in full	N/A	All in scope information has been released. Out of scope information has been redacted.	Attachment "image001.png" is an email signature image.
9	20 June 2017	RE West Coast Rivers WCO application	Release in part	S9(2)(a)	To protect the privacy of natural persons	Attachment "West Coast WCO Rejection letter.docx" is identical to document 7.1.
10	4 June 2019	RE Water Conservation Order	Release in part	s9(2)(a)	To protect the privacy of natural persons	Attachments "image011.png", "image015.png", "image016.png" and "image017.png" are email signature images.
11	19 February 2020	West Coast Rivers Application - Option	Release in full	N/A	N/A	Attachments "image001.png", "image002.png", "image003.png" and "Image004.png" are email signature images.
12	30 April 2020	20-M-00618 FW Water Conservation Consent - Waitaha	Release in full	s9(2)(a)	To protect the privacy of natural persons	Attachments "image002.png", "image003.png", "Image004.png", "image005.png", "image006.png", "image007.png", "image008.png", "image001.jpg", "image009.png", "image010.png" and "image011.png" are email signature images.

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12.1	30 April 2020	20-M-00618 Letter - To Waitaha Executive Grandmothers Council	Release in part	s9(2)(a)	To protect the privacy of natural persons	N/A
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Document 1

From: [Thomas O'Flaherty](#)
To: [Michelle Quirke](#)
Cc: [Jo Burton](#)
Subject: Fw: Water conservation order process
Date: Wednesday, 29 March 2017 5:01:25 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[BulkPaymentDetails-7.pdf](#)
[Final Water Conservation Order.pdf](#)

Hi Michelle,

The attached photos (from the applicant) might make for useful comm's material.

Also attached to this email is a new final version of the application.

Cheers,
Thomas

From: Aimee Paterson <Aimee.Paterson@morrisonkent.com>
Sent: 29 March 2017 16:57
To: Thomas O'Flaherty
Cc: Jane Ruka; Dr Bryan Gilling; Josey Lang; Jo Burton
Subject: RE: Water conservation order process

Kia ora ano Thomas

We have made the payment of \$1022.20 to the Ministry for the Environment's bank account. **Attached** is a report showing proof of payment.

I have also managed to spot and correct another error in the original application. Please find **attached** the final version for your consideration and please ignore all previous versions. I apologise for the many versions you have received today.

The applicant has also requested I send you two **attached** photos. The first (the dark one) is the Arawhata River. The second is the Waitaha River.

Thank you for your patience.

Nga mihi
Aimee

Aimee Paterson
> SOLICITOR

ddi s 9(2)(a)
ph (04) 472 0020

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www.morrisonkent.com

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From: Thomas O'Flaherty [mailto:Thomas.OFlaherty@mfe.govt.nz]

Sent: Wednesday, 29 March 2017 10:54 a.m.

To: Aimee Paterson <Aimee.Paterson@morrisonkent.com>

Cc: Jane Ruka <janeruka@gmail.com>; Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>;
Josey Lang <Josey.Lang@morrisonkent.com>; Jo Burton <Jo.Burton@mfe.govt.nz>

Subject: RE: Water conservation order process

Hi Aimee,

Thank you for submitting this water conservation order application. I will send you a formal confirmation once we have received the prescribed fee (\$1,022.20).

After we have received payment, we will assess the application for completeness under the Resource Management Act 1991, and provide the application to the Minister for the Environment so that he can consider it as soon as practicable. Note that the Minister may require further information before making any decisions.

Please do not hesitate to get in touch if you have any questions or would like to discuss the process.

Kind regards,
Thomas

Thomas O'Flaherty – Policy Analyst, Environmental Limits

Ministry for the Environment – Manatu Mo Te Taiao

Mobile: 021 266 6303 Email: Thomas.OFlaherty@mfe.govt.nz Website: www.mfe.govt.nz

No.3 The Terrace, PO Box 10362, Wellington 6143



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From: Aimee Paterson [<mailto:Aimee.Paterson@morrisonkent.com>]
Sent: Wednesday, 29 March 2017 10:15 a.m.
To: Thomas O'Flaherty
Cc: Jane Ruka; Dr Bryan Gilling; Josey Lang
Subject: RE: Water conservation order process

Morena Thomas

Please find **attached** an application for a Water Conservation Order. It is unsigned, but I will work on getting you a signed copy in a moment.

We are just in the process of collecting the \$1,022.20 fee from a number of different contributors. We will endeavour to have this fee paid into the bank account you mention below by the end of the week.

Nga mihi

Aimee Paterson
> SOLICITOR

ddi s 9(2)(a)
ph (04) 472 0020

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From: Thomas O'Flaherty [<mailto:Thomas.OFlaherty@mfe.govt.nz>]
Sent: Monday, 27 March 2017 3:42 p.m.
To: Nik Andic <Nik.Andic@mfe.govt.nz>; Aimee Paterson <Aimee.Paterson@morrisonkent.com>
Cc: Fiona Myles <Fiona.Myles@mfe.govt.nz>
Subject: Re: Water conservation order process

Hi Aimee,

My apologies for not getting back to you earlier.

You may submit an electronic copy of the application by emailing it to me. Please call me if you have any issues. My number is 021 266 6303 (the number below is incorrect). I will respond and confirm that we have received the application and will let you know about the next steps in the process.

The Ministry will accept a check for the payment of the application fee. If you would prefer to make an electronic payment. Please do so into the following bank account: Ministry for the Environment: 03 0049 0003202 000. Please include the applicant's name in the reference field and the text "WCO 212.35108.1450".

Don't hesitate to get in touch if you have any questions.

Kind regards,
Thomas

From: Nik Andic
Sent: 27 March 2017 14:42
To: Aimee Paterson
Cc: Fiona Myles; Thomas O'Flaherty
Subject: RE: Water conservation order process

Hi Aimee,

It was great talking to you just before.

When you are ready to submit your WCO, please contact Thomas O'Flaherty (Thomas.OFlaherty@mfe.govt.nz, 0212266303). He can confirm we have received it and begin the process.

Regarding the fee, please let Thomas know if you would like to pay electronically and he can get in touch with our accounts team to arrange the details.

Thanks,

**Nik Andic – Senior Analyst, Environmental Limits
Water Directorate**

Ministry for the Environment – Manatu Mo Te Taiao
Mobile: 021 026 21969 Website: www.mfe.govt.nz
23 Kate Sheppard Place, PO Box 10362, Wellington 6143



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Please consider the environment before printing this email

From: Aimee Paterson [<mailto:Aimee.Paterson@morrisonkent.com>]
Sent: Monday, 27 March 2017 12:08 p.m.
To: Fiona Myles
Cc: Nik Andic
Subject: RE: Water conservation order process

No worries, thanks very much Fiona!

Nga mihi

Aimee Paterson
> SOLICITOR

ddi s 9(2)(a)
ph (04) 472 0020

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Te Pitihana Whakaata

From: Fiona Myles [<mailto:Fiona.Myles@mfe.govt.nz>]
Sent: Monday, 27 March 2017 12:06 p.m.
To: Aimee Paterson <Aimee.Paterson@morrisonkent.com>
Cc: Nik Andic <Nik.Andic@mfe.govt.nz>
Subject: Water conservation order process

Hi Aimee,

Apologies for the convoluted process for getting you the information that you're after!

My colleague Nik Andic will give you a call to discuss the process for submitting a Water Conservation Order application.

Nik – Aimee's phone number is s 9(2)(a)

Thanks
Fiona

Fiona Myles – Senior Analyst, Freshwater Implementation
Ministry for the Environment – Manatu Mo Te Taiao
Email: fiona.myles@mfe.govt.nz Website: www.mfe.govt.nz

No.3 The Terrace, PO Box 10362, Wellington 6143



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s 9(2)(a)

Internet Banking for Business

Direct Credit Payment

Account	s 9(2)(a)		
Due Date	29/03/2017	Total Amount	\$1,022.20
Status	PROCESSED	Total Items	1
Authorised By	BDG		

To appear on your statement

To appear on other party's statement

One bulk transaction

Transaction Name	Direct Credit	Name	s 9(2)(a)
Particulars			
Code	s 9(2)(a)		
Reference	s 9(2)(a)		

Name	Account Number	Amount	Particulars	Code	Reference
Min for the Environm	03-0049-0003202-000	\$1,022.20 CR	Jane Ruka	WCO212.	35108.1450

End of Report

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Document 1.2

29 March 2017

Hon Dr Nick Smith
Minister for the Environment
Parliament Office
Private Bag 18888
Parliament Buildings
Wellington 6160

By email: n.smith@ministers.govt.nz

Tena koe Minita

Water Conservation Order for 38 rivers in TeTai Poutini

1. We, the Waitaha Executive Grandmother's Council (**WEGC**), Tangata Whenua O Aotearoa, request a Water Conservation Order (**WCO**) for 38 rivers on the West Coast Te Tai Poutini.
2. Information about the WEGC is listed in **Appendix One**.
3. The rivers we request a Water Conservation Order for are listed in **Appendix Two**. The awa cover two regions – the West Coast and Southland. The top end river is the Punakaiki River 42km North of Greymouth in the Buller District Council area. The lowest river is the Arawhata River at Jackson's Bay in the Westland District Council area. The common features of these awa are as follows
 - a) They cross land which is under the management of the Department of Conservation;
 - b) They are largely untouched and in pristine condition (many of them are situated in Te Wahi Pounamu South West New Zealand World Heritage area);
 - c) They all make their way into the Tasman Sea;
 - d) They are increasingly becoming the target of economic development opportunities (or example, Westpower's proposed hydroscheme on the Waitaha River, and the water take consent on the Arawhata River); and
 - e) The current legal protection for these awa is inadequate.
4. Please accept our application for a WCO and the accompanying fee of \$1,022.20 for and behalf of all New Zealander's who have a concern for the preservation of these awa. This fee is paid by the contributions of the Waitaha Executive Grandmother's Council (WEGC), Federated Mountain Clubs of New Zealand (Inc) and White Water New Zealand. We may also receive a post-submission contribution from Forest and Bird.
5. We, the applicants, have no intentions or expectations of financial gain from this process.

Fee

Background to the Application

6. We, the WEGC, are concerned about the historical and present lack of care and sustained non-protection of areas under the stewardship of the Department of Conservation. During the application research we were made aware that many North Island and South Island rivers, lakes and beaches have been listed as unsafe for swimming and recreational activities.
7. The recent application to renew the Arawhata water-take consent, and the application by Westpower for a concession to develop a hydroscheme on the Waitaha River, have been the catalyst and motivation for this WCO application. In particular, the Arawhata is an example where the Resource Management Act 1991 (**RMA**) is failing us. Applications for water-takes can be made by individuals or companies who have no obligation or interest in conservation of the particular waterway. There is a nation-wide trend where bores, streams and rivers have un-exercised allocations and yet the consent holders apply for renewals with little or no intent to take the water for the intended purpose of the original application. The Arawhata example gives a sense of ownership and proprietary rights for the applicants. This is a prime example of "water-banking" and the RMA does not provide sufficient protection of water in these circumstances.
8. The RMA does not consider that there is a value within the privilege of taking water, and this is being abused. New Zealand authorities should fully consider the long term repercussions for future natural resources. The generation of electricity can be funded substantially by overseas corporate investment and by way of the share market, where international investors are able to exploit our water resources with zero cost for the use of this taonga. It is now apparent that overseas dairy farm investors pollute our water ways, pay little tax and leave New Zealand taxpayers with the pollution issues to resolve at our cost.
9. The discussion above shows that we must now consider that our water is a sought after commodity that other countries covet.
10. New Zealanders, the tangata whenua of Aotearoa, are being charged three hundred percent more for a bottle of water than a litre of diesel at a service station. Our water is a free flowing natural resource which has been subject to government sanctioned exploitation by overseas interests.
11. We, the WEGC tautoko and embrace any groups and individuals who share our concerns for these waterways. These rivers and their catchments are at this time still pristine wilderness rivers that are largely in their natural state. It is our duty, as tangata whenua and New Zealand citizens, to take a lead to preserve their natural integrity.

Legislative requirements for an Application

12. The WEGC note that under section 201(2) of the Resource Management Act 1991, an application for a Water Conservation Order must do three things. It must:
 - a) identify the water body concerned; and
 - b) state the reasons for the application with reference, where practicable, to the matters set out in sections 199, 200 and 207; and

- c) describe the provisions which, in the applicant's opinion, should be included in a Water Conservation Order and the effect that such provisions would have on the water body.
13. The WEGC note that the legislation refers to a "water body", and therefore does not seem capable of recognising an application for multiple water bodies. 1 Tikanga Maori takes a holistic view of the world and our natural resources. Thus the WEGC see these water systems as part of one combined water body, namely the westward watershed of the Southern Alps. This application has been drafted in accordance with this approach.
14. If the law demands it, the WEGC can submit 38 different applications for the 38 awa concerned. However, WEGC note that this will only add to the Ministry for the Environment's administrative workload and create unnecessary expense for the WEGC. This application is therefore submitted at a higher, principled level for the protection of these water systems and we ask that the Ministry take a similar principled response.
15. The WEGC has identified the water bodies concerned in **Appendix Two**.
16. The WEGC will now broadly discuss three aspects of the section 199 requirements of which they have particular knowledge:
- (a) section 199(2)(c) – characteristics of outstanding significance in accordance with tikanga Maori;
 - (b) section 199(2)(b)(v) – characteristics of outstanding significance for recreational purposes; and
 - (c) section 199(2)(b)(iii) – characteristics of outstanding significance for their wild, scenic or other natural values.
- a) Section 199(c) Resource Management Act 1991 – The protection of characteristics which any water body has or contributes to which are considered to be of outstanding significance in accordance with tikanga Maori**
17. In the context of Rangatiratanga, Te Tiriti O Waitangi and Waitaha Nui Tonu, the WEGC have multiple Whakapapa connections to signatories of the Te Tiriti o Waitangi and many are descendants of settlers for whom this document provided protection.
18. Waitaha has no settled claim with the Crown. We hold rangatiratanga at whanau, hapu, and iwi levels.
19. We whakapapa from whanau to iwi the length and breadth of Aotearoa.
20. Therefore, the WEGC as the advisory and governance body of Waitaha Nui Tonu; exercise tino rangatiratanga as kaitiaki of all puna, creeks, streams, rivers, lakes, repo, bodies of water, geothermal sites, oceans and environments within Aotearoa. This includes the 38

1 The RMA defines a water body as fresh or geothermal water in a river, lake, stream, pond, wetland or aquifer, or any part thereof that is not located within the coastal marine area.

awa to which this application relates.

21. These 38 awa should be protected in accordance with the Waitaha principles of care described below:

- a) Wairua: Waitaha have a heritage of wairua belief that encompasses everything encountered in life's journey. eg. awa.
- b) Tikanga: values and practices deemed necessary for good relations with people, land and the environment in which we live.
- c) Kaitiakitanga: guardianship and protection and managing the environment based on a Maori world view.
- d) Mauri: power, life principle and quality of a being or entity. People, fish, animals, birds, forest, land, seas, rivers, inanimate objects, ecosystems social groups. Mauri when lost, in some cases, can be restored by conservation, karakia and ceremonies.
- e) Manakitanga: receiving or bestowing care or respect on guests or objects. All benefit from reciprocal manakitanga.
- f) Mana: spiritual authority and power gifted by Io. Its intrinsic value is use of power for a specific purpose. Mana Tangata, Mana Whenua, Mana Awa. Fresh water is the blood of Papatuanuku. Commercial entities risk the health of waterways and aquifers. They unleash toxicity, pollution and destruction into the surrounding environment.

22. Waitaha have korero about the area in which these 38 awa are situated. There are ancient Pa sites that were situated along Te Tai Poutini. The ancient pounamu trails caused constant conflict between Iwi. The Waitaha Pounamu trails in the Southern Alps, Kā Tiritiri o te Moana (which were re-opened in 1996 by Waitaha Pakau Waka) were traversed on a regular basis by many Northern and Southern tribes. Details are listed throughout history of the Maori pounamu wars. The journey to these trails between Pa sites criss-crossing the treacherous terrain from coast to coast and across the mountain ranges all the way from the North would have resulted in some loss of life, either through war or natural causes, at any point along the way. Maori custom during this tapu time of loss and grief and warfare would mean that the tupapaku would have been dealt with according to tikanga.

23. Nga Korero Tupuna no Waitaha speak of the following significant sites in the area, establishing their tangata whenua status:

- a) **Whakapohai** – he marae tuturu no Ngati Pakau. We and other hapu have 1600 acres of land adjacent to the Kahurangi National Park. These lands were deliberately withheld from the creation of the National Park by the current descendants. This area is waahi tapu of great significance to all of our people. The world renown Heaphy Track from Nelson to Te Tai o Poutini traverses our lands which we have kept open for the general public use.
- b) **Kakakakakamea** – ancient settlement and water/trails which provide access into upland areas of significance to the east of the ocean;

- c) **Waimanguroa** – This site is associated with Taipo, an ancestor from ancient times. The waters here flows down to the sea from a large waahi tapu area high up on the escarpment, currently known as the “Stockton Plateau.” This area was hugely affected by coal mining from European settlement continuing up to the present day with Solid Energy and Bathurst mining. This was the site of one of the most important and revered marae of Waitaha. Some of that marae still physically exists having withstood the destruction of mining, but for how long in these times of commercial interest – who knows.
- d) **Kawakawatiri** – the river area known now as the “Buller River”.
- e) **Te Kuuha** – at the area where the Kawatiri (Buller River) valley systems meets the sea.
- f) **Hawea Ki Te Rangi** – a massive waahi tapu no Waitaha, known by Europeans as Mount Hawera due to colonisers failing to protect the original names on the landscape. The extensive and extreme korero, whakapapa, history and significance of Hawea Ki Te Rangi is known and can be told but is not for this paper;
- g) **Punakaiki** –extensive settlement/access to Hawea Ki Te Rangi (the name Tu Papaku Rori indicates why this place was so significant);
- h) **Po Herenga Wairua** – extensive waahi tapu area linked to Hawea Ki Te Rangi and known now as Pike River. As above, extensive knowledge is held for this area;
- i) **Mawheranui** – linkage trail back to the Kawakawatiri inland areas;
- j) **Taipo River** – awa tapu whakapapa and source links back to Waiamanguroa;
- k) **Taramaakau** – access into the Taipo and waahi tapu areas;
- l) **Turiwhati** – ancestor place and waahi tapu;
- m) **Waimea River area** – ancient site for the voyaging waka, navigation, waahi tapu, tuu ahuu, place of the old ones;
- n) **Arahura River** – access to hinterland and the place/source of the pounamu;
- o) **Hokitika River area** – Hokitika ki Hokianga te hokingamai o nga kuupenga a Kupe. This area links with the Waitaha histories and connections to the Hokianga Harbour/Arai Te Uru in the Far North;
- p) **Moana Kaniere** – place of significance – O Hine Amaru autonomous ancestor was at this place (Ngati Hine), Ko Te Pehi a Tu ancestor place, Waimirangi Falls (Waahu tapu). Links to the trails from the Taipo (thus back to Waimanguroa) again;
- q) **Waitaha River** – highly significant waahi tapu areas, this the bases of the original claim of the Grandmothers for the area;
- r) **Hare Mare** – ancient ancestor, links to the area of the Kawatiri River where the

current lime works are sited;

- s) **Poerua** – lake and mountain; extensive significance to the voyaging waaka in these southern seas;
- t) **Makaawhio** – as above and safe landings/anchorage, tauranga waaka;
- u) **Turineenee** – (Mosquito Hill); Haast River area – tupuna associations;
- v) **Anita Bay** – South Westland; waahi tappu, occupation site, links to the extreme taputapu area off-shore in the south western seas where the Maori fishermen do not go or drop nets/fishing gear to this day.

24. It is of utmost importance to consider the history of this land. Many generations of Maori and non-Maori have lived and died here. This history demands respect. It has been proven overseas and the evidence is becoming clear here in Aotearoa, that the industrialisation of land and water results in hazardous and long-term deterioration of these natural resources. It is abundantly clear that we, the citizens of Aotearoa need to consider protecting our last remaining pieces of taonga such as the areas of Te Tai Poutini, Kā Tiritiri o te Moana and the National Parks throughout Aotearoa. The Crown and its subsequent departments should not be party to the indiscriminate removal of these resources, especially without consultation with all New Zealanders.

(b) Section 199(2)(c)(v) Resource Management Act 1991 – The protection of characteristics which any water body has or contributes to, and which are considered to be outstanding for recreational purposes

25. The WEGC has been in contact with the Federated Mountain Clubs of New Zealand (**FMC**), and Whitewater New Zealand (**WWNZ**) for information about the recreational values of these 38 awa.

Federated Mountain Clubs of New Zealand

26. The FMC note that their members support the preservation of these wild rivers, their dynamic gorges and serene flats, their wild creatures and plant communities and their histories. These rivers provide routes through valleys that are increasingly rare bases for tramping experience. They provide the backdrop for accessing and exploring the hinterland of the West Coast and Southland. These rivers reflect what tramping is all about, food gathering, travel, research and camaraderie.

27. The FMC also notes that large areas of public conservation land on the West Coast, some of which include these rivers, are under stewardship designation and should have been assessed and given appropriate classification by the Department of Conservation some time ago. This would have led to better protection of environmental values than the present stewardship classification providers.

28. The FMC tauktoko of this application is attached as **Appendix Three**.

29. WWNZ also supports this application from the WEGC for a Water Conservation Order for 38 rivers in Te Tai Poutini. A statement discussing the recreational values of the 38 awa from WWNZ is attached as **Appendix Four**.

(c) Section 199(2)(b)(iii) Resource Management Act 1991 – The protection of characteristics which any water body has or contributes to, and which are considered to be outstanding for their wild, scenic or other natural characteristics ()

30. The wild, scenic and natural characteristics of this area generally are acknowledged in the fact that these awa cross at least four National Parks (Fiordland, Mount Aspiring, Aoraki and Te Tai Poutini). The area has also been recognised by United Nations Educational, Scientific and Cultural Organisation as a World Heritage Area (Te Wahi Pounamu – South West New Zealand).
31. These 38 awa make a significant contribution to the elevated status of the area. Many start as glacial lakes that turn into wild, raging rivers. They have contributing to the shaping of the land in these areas. They support the existence of a number of unique flora and fauna. There is no other environment like the one that can be found along the West Coast/Southland, and the awa are a key part of that.
32. The current legal protections are not adequate. This can be seen in the fact that human influence is slowly but surely invading this last bastion of untouched wilderness. As in the Arawhata River where a resource consent has been granted for water taking, and in the Waitaha River where it is the government's intent to allow Westpower to build a hydroscheme for generating electricity. Slowly the borders of this beautiful area are being permeated.

(d) Section 199(2)(c) Resource Management Act 1991 – 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

33. The WEGC understand that the Minister for the Environment needs each of these categories addressed in specific detail for each of the 38 awa in order to grant the Water Conservation Order.
34. The WEGC is an unfunded, voluntary body who do not themselves have the expertise to address each of these categories for every river. They have relied on the good will and

assistance of a number of other people and organisations, including FMC and WWNZ, themselves with limited capacity, for access to and understanding of the extensive research that has been undertaken on some these topics. In this respect, the WEGC particularly want to acknowledge the following researchers: Peter P Ruka Jr, Joseph Kingi, Grace Hart and Te Miringa Ruka, and Diane Hanley, Diana Shand and Diane Lucas who have provided advice and support, Hemi Te Rako, Tungane and Matauranga of Waitaha and Millan Ruka of Environment River Patrol Aotearoa and advisor to the WEGC. Finally, the WEGC wishes to acknowledge a number of individuals who have not been named, who have provided their encouragement and support throughout the process of compiling this application.

35. The New Zealand Water Forum, a group which advocates for better freshwater management and freshwater quality throughout New Zealand, has also provided a statement of support for this application which is attached as **Appendix Five**. In addition, Forest and Bird supports the purpose of this application, namely to protect some of our rivers on the West Coast which are naturally outstanding.
36. The table at **Appendix Six** is an attempt to summarise some of this research into an accessible format. It provides references for the Ministry for the Environment to look at if they need published evidence of the significance of the characteristic for that particular river.
37. The WEGC are happy to engage further with the Minister on the specific details of this application.

(e) Section 201(c) Resource Management Act 1991 – Provisions of the Water Conservation Order

38. The final requirement is section 201 of the Resource Management Act 1991 under which a Water Conservation Order must state the provisions of the order and what effect it will have on the water body.
39. The purpose of the Water Conservation Order is to protect these 38 awa from further human interference. Therefore the WEGC requests a purposive provision, similar to section 3 in the National Water Conservation (Motu River) Order 1984 stating:


It is hereby declared that the river shall be preserved as far as possible in its natural state.

40. We accept that we need to make some forms of compromise by considering the current consents allocated, in order to gain Conservation Order Status. All resource consents already approved or being currently exercised against the intent and purposes of the consent application, should carry on within the terms and conditions of that consent. However consents that are due for renewal must be vigorously vetted for consistency with the Water Conservation Order.
41. In particular the WEGC want to see certain activities banned where scientific evidence has proven the activity to be harmful to the awa and the surrounding environment. This includes:
 - a) large-scale takings of water for commercial purposes;
 - b) diversion or damming of water for electricity generation;

- c) any activity that blocks fish passage in the water body;
 - d) discharge of chemicals into water;
 - e) mining in or near to water bodies; and
 - f) extraction of gravel, minerals and other resources from river beds.
42. These activities are known to have adverse effects on the features described in section 200 of the Resource Management Act 1991 (quantity, quality, rate of flow, and more). Given the outstanding characteristics these 38 awa possess, which are discussed both above and below, under no circumstances should consents and/or concessions for these activities be granted.
43. For each of the banned activities, WEGC requests a section, similar to that in section 4 of the National Water Conservation (Motu River) Order 1984, placing a complete ban on any new application for such an activity.
44. The WEGC is willing to consider some exclusions to these banned activities if they are for the purposes of supporting the public good, such as domestic water supply.

Conclusion

45. The WEGC state that the current legislative and policy protections for these 38 awa in Te Tai Poutini are inadequate, and that a Water Conservation Order in the broad terms described above would help fill this protective gap. These 38 awa are of outstanding significance for the habitat they provide, their fisheries, their wild and scenic characteristics, their scientific and ecological values, and their recreational, historical, spiritual and cultural characteristics. The fact that these 38 awa have gone so long without sufficient legislative protection has exposed them to cherry-picking for commercial endeavour, endangering their status as some of the few remaining pristine taonga tangata whenua have left. They are also an example of the ad hoc and patchwork approach taken by Government to protecting our valuable and fast-diminishing natural resources.



Jane Mihingarangi Ruka
KAIWHAKAHAERE
Waitaha Grandmothers Executive Council

m. s 9(2)(a)

e. s 9(2)(a)

Appendix One: Information about the WEGC

1. The Council of Waitaha Grandmothers was established in the year 2000.
2. The membership of the WEGC includes:

Aotearoa (New Zealand)

- Te Rungapu Te Wera Ruka Te Korako – Waitaha Ngati Pakau, Te Uriroro, Ngapuhi
- Miriama Solomon – Ngai Tu, Te Roroa, Ngapuhi, Waitaha
- Annie Ngaere Botcher – Waitaha Ngati Pakau Ngapuhi
- Celia Rahui Marsh – Ngai Tu, Ngapuhi, Waitaha
- Grace Hart – Waitaha, Ngati Pakau, Ngapuhi, Waitaha
- Te Miringa Rosina Huriwai – Ngai Tu, Ngapuhi, Ngati Porou, Waitaha
- Ngaronoa Kimura – Mahurehure, Ngati Pakau, Te Uriroro, Ngapuhi, Tainui, Waitaha
- Kathleen Ruka Tuhiwai – Ngati Pakau, Ngati Hine, Te Uriroro, Ngapuhi, Waitaha
- Paehere Clark – Muriwhenua, Ngati Mahana, Ngapuhi, Waitaha
- Trisha Korako – Ngati Pakau, Ngapuhi, Waitaha
- Mere Taylor Rakete – Ngati Tautahi, Taiamai, Waiariki, Ngapuhi, Waitaha
- Margaret Te Pahi Thompson – Ngati Rehia, Ngapuhi, Rapuwai, Waitaha
- Anne Carmen – Ngati Pakau, Mahurehure, Ngapuhi, Te Uriroro, Waitaha
- Jane Hotere – Te Aopouri, Waiariki, Ngapuhi, Waitaha
- Gaynor Rae – Waitaha, Ngati Pakau, Ngapuhi
- Vida Jane Gwynne – Waitaha, Ngati Pakau, Ngapuhi
- Mihi Pene – Tuhoehoe, Waitaha
- Petal Clay – Waitaha, Ngati Pakau, Te Uriroro, Ngapuhi
- Kate Cassidy – Waitaha, Ngati Pakau, Te Uriroro, Ngapuhi
- Dr Makere Stewart Harawira – Ngati Rakai, Waitaha
- Brenda Warrender - Waitaha
- Carol McCrone- Ngapuhi, Ngati Pakau, Waitaha
- Shirley Cummins - Waitaha
- Jane Mihingarangi Ruka – Waitaha, Ngati Pakau, Te Uriroro, Ngapuhi

Rāwāhi (International)

- Dr Makere Stewart Harawira – Ngati Rakai, Waitaha, Alberta, Canada
- Kate Cassidy – Waitaha Ngati Pakau, Te Uriroro, Ngapuhi, Sydney Australia
- Nancy Noret Moore – Waitaha, Texas USA
- Lee Nitsch – Seneca, Waitaha, Atlanta Florida USA
- Leilani Petranek – Waitaha, Hawaii
- Renchin Yonjan – Waitaha, Kathmandu, Nepal
- Junko Nakatani – Waitaha, Japan

3. The Grandmothers work includes:

- working with children and young people

- teaching Te Reo & Kaupapa Māori
- indigenous medical & rongoa practitioners
- working with natural therapies and health solutions
- working with new mothers & breast fed babies
- providing references eg. employment, visas, character references etc
- working with law enforcement
- supporting others in court appearances
- counselling victims of family violence
- direct searches for whakapapa
- direct searches for Māori land
- seek scholarships & funding for youth in academics or sports
- recovery of Waitaha taonga (pre-waka nation times)
- verification of archaeological sites
- research of future solutions for water, flora, fauna & land

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Appendix Two: 38 Rivers in Te Tai Poutini

River	Latitude	Longitude
1.Punakaiki.	-42.1982700	171.4001400
2.Waianiwaniwa	-43.4983200	172.0201200
3.Mawheranui	-42.40828	171.38013
4.Kaimata	-42.53828800	171.3001300
5.Taramaku	-42.7382900	171.3001300
6.Arahura	-42.7282900	171.1101300
7.Hokitika	-42.9883000	170.9901200
8.Totara	-42.8948493	170.8416193
9.Mikonui	-49.9287	170.7722
10.Waitaha	-43.1283000	170.7601100
11.Wanganui	-41.3999984	172.049999
12.Omoeroa	43.4383000	170.1101000
13.Porua	-42.0782900	170.4401100
14.Whataroa	-43.1283000	170.3101100
15.Waitangitaona	-43.3683000	170.2801100
16.Okarito	-43.2583000	170.2301100
17.Waiho	-43.4183000	170.1701000
18.Waikukupa	-43.4683100	170.1001000
19.Waikowhai	- 43.4500000	169.8833300
20.Cook	-43.441737.	169.781396
21.Ohinetamatea	-43.4483100	169.7501000
22.Karangarua	-43.6283100	169.8201000

23.Manakiaua	-43.5883100	169.7401000
24.Makawhio	-43.57167	169.67972
25.Mahitahi	-43.6983200	169.6201000
26.Paringa	-43.6333308	169.433331
27.Moeraki	-43.7383200	169.2900900
28.Whakapohai	-43.6983200	169.2200900
29.Waita	-43.7833302	169.116666
30.Haast	-43.8333300	169.0333300
31.Okuru	-43.8999964	168.916663
32.Turnbull	-43.8999964	168.899996
33.Waiatoto	- 43.9833294-	168.7833
34. Pororari	-42.12091	171.37639
35. Taipo	-42.85004	171.44339
36.Waitangiroto (Kotuku Sanctuary)	-43.18316	170.33899
37. Cascade	-44.17660	168.46000
38.Arawhata	-44.168.5200700	168.5200700

Appendix Three: Statement of support from Federated Mountain Clubs



Federated Mountain Clubs of NZ (Inc)

P O Box 1604

WELLINGTON

administrator@fmc.org.nz

Federated Mountain Clubs' support of the Waitaha Executive Grandmothers' Council's water conservation order application relating to 38 South Island West Coast awa

Federated Mountain Clubs was founded in 1931 and advocates for New Zealand's backcountry and outdoor recreation on behalf of 20,000 members.

The awa the application seeks to protect are largely pristine. Present incomplete understanding of their values is down to a mix of sheer remoteness and absence of adequate expert assessments of those values. It is worth noting that large areas of public conservation land on the West Coast under stewardship designation should have been assessed and given appropriate specific classification by the Department of Conservation some time ago; it is highly likely that this would have led to far greater protection of environmental values than their present stewardship classification provides. FMC has an ongoing campaign to see that this essential work is done.

Our members revere these wild rivers; their dynamic gorges and serene flats; their wild creatures and plant communities; their histories. Often formidable and always beautiful, they provide routes through valleys that are increasingly rare bases for much of what is thought of as Kiwi culture; they are intrinsic to hinterland theatres for physical endeavour, food gathering, travel, research, and camaraderie.

The awa are inseparable from the whenua, and together, they are deeply connected with the people who have been and will go there. FMC strongly supports this water conservation order application as its granting will protect the mana of the rivers and everything connected with them - the land, the people, and a backcountry culture that values nature's sovereignty.

Appendix Four: Statement of support from Whitewater New Zealand

1. Whitewater NZ represents approximately 1,800 kayak and canoe club members, and individual members from around New Zealand. The national body helps to look after the interests of paddlers with respect to access, safety, and river conservation among other matters.
2. Whitewater NZ was originally formed in the mid 1950's as the New Zealand Canoeing Association (NZCA). In the late 1990's the NZCA was split up into a number of different bodies representing different facets of the sport, including the New Zealand Recreational Canoeing Association (NZRCA), which became Whitewater NZ in the mid 2000's. Whitewater NZ is affiliated to the New Zealand Canoe Federation, which is in turn affiliated to the International Canoe Federation (ICF).
3. The NZCA, NZRCA and Whitewater NZ have represented kayakers at many hearings over the years affecting white water river resources throughout the country including:
 - (a) Water Conservation Orders on the Motu, Rangitikei, Mohaka, Motueka, Kawarau, Buller, Rangitata, Hurunui Rivers and others
 - (b) submissions on many policy statements, water legislation initiatives, water consents and renewals, Department of Conservation Plans and Council and Regional Plans throughout New Zealand
 - (c) representation on the Land and Water Forum, advising the government on the management of fresh water
4. Whitewater New Zealand supports the Waitaha Executive Grandmothers Council (WEGC) application for a Water Conservation Order (WCO) for this outstanding group of wild and scenic rivers.
5. Consistent with section 199(1) of the Resource Management Act, the WCO application's purpose is to recognise and sustain:
 - (a) outstanding amenity or intrinsic values which are afforded by waters in their natural state:
6. The West Coast of New Zealand is a stunning, wild and scenic whitewater area of the highest quality, unique in the world as a contiguous group of wild rivers in close proximity providing environmental continuity across the catchment of the west facing Southern Alps.
7. The West Coast region has 1.9 million hectares of public conservation land, including five national parks, and part of the South West New Zealand UNESCO World Heritage Area. It has unique landscapes, wetlands of international significance, a rich marine eco-system, and a range of mineral deposits. There are relatively few significant water-use pressures and water and air quality is generally good.²
8. The New Zealand Conservation Authority stated in it's 2011 discussion paper Protecting New Zealand's rivers, "WCO's have primarily been used to protect rivers under threat. They have not been used to protect a representative range of rivers. The outcome sought is comprehensive protection for a representative range of rivers. The set of selected rivers

should be genuinely protected in perpetuity in their natural state and should include rivers with outstanding ecological, landscape, scenic, recreational, amenity and cultural characteristics and values.”³

9. The Parliamentary Commissioner for the Environment has stated in a 2012 report on wild rivers; “The challenge is to find a more strategic approach that allows for a recognition of the wider value of wild and scenic rivers, costs less, and does not take so long.” This application reflects that strategic approach, recognising and seeking protection for the collective value of the wild rivers of the West Coast, based on existing analysis and evidence collated.
10. Since the large hydro scheme era of the 1960’s and 70’s there has been an on-going national debate and several attempts by Government to re-balance the management of rivers with a stronger emphasis on conserving wild and scenic rivers. The current Water Conservation Order legislation is an outcome of a 1977 discussion paper from the Minister for the Environment outlining the case for a Wild and Scenic Rivers Act to protect New Zealand’s remaining wild rivers.
11. Since that time, various policy papers and analysis of rivers and their surrounding landscapes, ecological and recreational values has been conducted by environmental groups, Government departments and local government organisations.
12. WCO’s are an imperfect protection that can be modified to allow development in a relatively short time, should the case for extractive or other uses prove to be sufficiently compelling. However, they are the only mechanism available to protect rivers or sections of rivers that do not lie within a National Park and importantly set the default status of those rivers enjoying a WCO to conserve rather than develop. Moreover, the case for WCO’s on wild and scenic rivers is stronger when those rivers run through Conservation areas held in stewardship areas, which has a lower test to extractive development proposals.
13. For such a unique and outstanding area with a high number of wild and scenic rivers, there is only one West Coast river (the Buller) and parts of another (the Mawheranui/Grey) afforded protection by a WCO. The application for the the WCO for these two rivers was managed and funded by Fish and Game NZ, so has a natural bias toward protection of the trout and salmon fishery. In contrast, no WCO protection has been applied to any of the outstanding wild rivers south of Greymouth.
14. A comprehensive assessment of rivers and whitewater recreational values on the West Coast was completed in 2011⁴ assessing and classifying the highly valued rivers from a whitewater recreational perspective. That work supports this WCO application, providing over 200 pages of analysis and detailing rivers with outstanding landscape and recreational attributes. That information is critical to the applicaton, supporting the recreational case for conserving these rivers in their wild and natural state.
15. Further assessment on the landscape, ecology and wilderness values of the surrounding catchment is available in comprehensive published reports from Federated Mountain Clubs,

3 NZ Conservation Authority, 2011,

4 Whitewater Recreational Values of West Coast Rivers – A. England, 2011

Department of Conservation and NIWA.

16. The Government Departments that have the legislated responsibility and resources to provide protection for our wild and scenic rivers have struggled to make significant progress. Of the five recommendations made in the Parliamentary Commissioner for the Environment 2012 report on the need for action to protect our wild rivers, only one⁵ has been progressed to any material extent.
17. There a form of protection for some of the rivers included in this application due to their headwaters or part of the river being in either a National Park or Wilderness Zone. However, this does not provide appropriate protection for the quality or quantity of water in the rivers nor does this provide appropriate protection of the integrity of a group of rivers in their natural and wild state, from source through to sea. Whilst an imperfect solution, a WCO goes some way to providing that protection.
18. Given the history of environmentally destructive river exploitation in New Zealand⁵ and the waterways and rivers that have been impacted and degraded by acid mine drainage on the West Coast, the lack of an elementary protection for these wild rivers reflects poorly on New Zealand's environmental management. The absence of appropriate strategic guardianship has resulted in speculative profit driven river exploitation in an ad-hoc manner, as seen in the recent application for an environmentally degradative hydro scheme on the pristine Waitaha river, approved in principle by the Department of Conservation.
19. The current Waitaha application for a concession for water diversion and hydro scheme has occurred at a time when other proposed schemes on the Arnold and Stockton Plateau have been delayed for financial reasons. However, given the projected economic, population and tourism growth in New Zealand, the prospect of further applications for hydro schemes and industrial river discharges in inappropriate locations occurring in the same piecemeal manner is significant, as has occurred throughout New Zealand's history.⁶
20. The Amethyst hydro scheme (6 MW) recently commissioned and the consented hydro schemes planned for the Arnold (46 MW) and Stockton (25MW) in heavily modified environments are vastly preferable options to new hydro schemes in outstanding wild rivers and landscapes such as that proposed for the Waitaha. The proposed 2015 West Coast Regional Policy Statement states "Many of the region's rivers and creeks have potential for hydroelectric development for individual domestic and small-scale business use, with no more than minor effects. Appropriate hydro schemes can be developed and the adverse effects reduced by careful design and location of structures." The Amethyst, Arnold and Stockton schemes as well as some other existing micro hydro schemes on the West Coast are evidence that this can be achieved. The proposed Waitaha scheme however is evidence that a Water Conservstion Order/s are required to protect specified rivers.
21. The WEGC WCO application ensures that a strategic approach to river protection and economic development is taken. It does not prevent future hydro development, but it does ensure that any applications are located appropriately and assessed for impact on the

5 Recommendation 4 - transferring the administration of riverbeds located within conservation land to the Department of Conservation

6 New Zealand's Rivers – An Environmental History – C Knight, 2016

specified values that the WCO protects as a priority.

22. The WEGC WCO application is also consistent with the proposed 2015 West Coast Regional Policy Statement that states “The long term objective for our region is for all high value land to be in Crown ownership and all low (conservation) value land to be in private ownership, and being used to generate employment and income. The RMA requires the protection of natural character and outstanding natural features and landscapes. The West Coast is internationally recognised for its landscape features. The glaciers, pancake rocks, the Heaphy Track and many other attractions are managed by the Crown for the purpose of visitor appreciation. The most frequented sites are regionally significant for the West Coast given that tourism is currently one of the top three economic drivers for the region.”
23. The WEGC WCO application will provide direction for the West Coast regional and district planning authorities, by giving effect to the National Policy Statement for Fresh Water Management. Specifically, objective A2 – “Protecting the overall quality of fresh water within a region is maintained or improved while:
- (a) protecting the significant values of outstanding freshwater bodies;
 - (b) protecting the significant values of wetlands”
24. Whilst Whitewater New Zealand focus is on recreation the intangible qualities of wild rivers provide a spiritual connection to the environment. It is the unique natural environment that sets New Zealand apart from the rest the world, yet after 50 years of political debate on the need for effective protection of our rivers, they remain under threat and with minimal protection.
25. In accordance with section 199(2) of the Resource Management Act, the WCO being sought in the WEGC application should provide for:
- (a) the preservation as far as possible in its natural state these rivers that are considered to be outstanding
 - (b) protection of characteristics which these rivers have or contributes to, and which are considered to be outstanding:
 - (i) for wild, scenic, or other natural characteristics
 - (ii) for recreational, historical, spiritual or cultural purposes
 - (c) the protection of the natural characteristics which are considered to be of outstanding significance in accordance with tikanga Maori
26. In accordance with section 200 of the Resource Management Act, the WCO is seeking:
- (a) that the rivers be preserved as far as possible in their natural state and restrictions are in place on future activities or consents that change the natural aspects of the river, including the recreational and landscape values, water quality, rate of flow, level and temperature.
 - (b) a restriction on the future extraction of water other than for
 - (i) domestic water supply (including water required for people in commercial and tourist facilities)
 - (ii) fire fighting purposes
 - (iii) drinking water required for animals
 - (iv) water required to maintain river and flood protection works, bridges and roading, subject to the provisions of the Resource Management Act

- (c) prohibition on the the installation of new industrial structures including new hydro systems that divert water from the natural river bed or dam rivers,
- (d) prohibition on new effluent discharge systems or increased flow in existing effluent discharge systems.

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Appendix A: References

1. An Assessment of the Whitewater Recreational Values of West Coast Rivers – A. England, 2011
[www.lincoln.ac.nz/whitewater recreational values of West Coast rivers](http://www.lincoln.ac.nz/whitewater-recreational-values-of-west-coast-rivers)
2. Hydro Electricity or Wild Rivers? - Parliamentary Commissioner for the Environment 2012
<http://www.pce.parliament.nz/wild-riversweb>
3. Update Report, Hydro Electricity or Wild Rivers? - Parliamentary Commissioner for the Environment 2014 www.pce.parliament.nz/update-report-hydroelectricity-or-wild-rivers
4. Protecting New Zealand's Rivers – NZ Conservation Authority
[nz-conservation-authority/publications/protecting-new-zealands-rivers/](http://www.nzca.govt.nz/publications/protecting-new-zealands-rivers/)
5. National Policy Statement for Freshwater Management 2014
[mfe.govt.nz/Fresh water/nps-freshwater-management-jul-14](http://www.mfe.govt.nz/Fresh-water/nps-freshwater-management-jul-14)
6. West Coast Conservation Management Strategy 2010 - 2020
<http://www.doc.govt.nz/west-coast-cms-2010/westcoast-cms>
7. Proposed West Coast Regional Policy Statement
[wrc.govt.nz/RPS/Proposed Regional Policy Statement](http://www.wrc.govt.nz/RPS/Proposed-Regional-Policy-Statement)
8. New Zealand's Rivers – An Environmental History – C Knight, 2016
9. New Zealand Whitewater Guide v5 – G Charles, 2015

Appendix B

River	Description	Conservation Zoning	National Park	Detailed recreational analysis data	Comments
Arahura	No info on DOC Maps - tbc	?	Nil	Yes	Riverbed of Arahura ceded to Mawhera Incorporation in late 1970's. Ngai Tahu own all pounamu in situ. Water not owned and catchment status unclear
Hokitika, including tributaries Kaniere, Toaroha, Styx, Kokatahi, Whitcombe, Mungo	The majority of the Hokitika river system from source to sea is held in DOC stewardship land, with some private farmland and marginal strip zoning in the lower river. Lake Kaniere and Kaniere River are held in Lake Kaniere Scenic Reserve	S.25 s.24(3) Private Land Rsvs 19.1(a)	Nil	Yes	The Hokitika and it's many tributaries rate very highly for whitewater values. Being so close to Hokitika, they readily accessible for kayakers travelling to the region.
Totara	Mouth: Totara Lagoon Wildlife Mgmt Reserve Lower Reaches: adjoins private Land Mid Section: (bulk of river) located in Totara Mikonui Forests Headwaters: Upper Totara	S. 22 Private land S.25 S.21	Nil	Yes	Majority of the river in DOC stewardship land

	Ecological area				
Mikonui	<p>Mouth: Mikonui River Mouth</p> <p>Lower Reaches and Mouth: mix of Marginal Strip and Stewardship, plus small parcels of private land around lower reaches and Mikonui flats near Totara saddle</p> <p>Mid and Upper Reaches: majority of the river and major tributaries Dickson and Tuke Rivers are contained within the Totara Mikonui Forests stewardship area</p>	<p>S.25</p> <p>S.24(3)</p> <p>S.25</p>	Nil	Yes	<p>Majority of the river in DOC stewardship land.</p> <p>The tributary Red Granite Creek (S.25) contains 7 notable waterfalls between 6 and 15 metres high</p>
Waitaha, incl Kakapotahi (little Waitaha)	<p>Mouth: mix of Marginal Strip and Stewardship. Kakapotahi Scenic Reserves adjacent to junction of Kakapotahi & Waitaha rivers.</p> <p>Lower Reaches: Braided sections of Waitaha riverbed mix of stewardship and private farmland. Lower reaches of Kakapotahi also run through a mix of private and stewardship land</p> <p>Mid and Upper</p>	<p>S.24(3)</p> <p>Rsvs 19.1(a)</p> <p>S.25</p> <p>S.25</p> <p>Private land</p> <p>S.25</p>	Nil	Yes	<p>Majority of the river and alpine/glacial fed headwaters in DOC stewardship land.</p> <p>Waitaha headwaters include glacier fed Ivory lake and County Stream/Glacier, with the Adams wilderness area to the south</p>

	<p>Reaches: contained with the Waitaha & Totara Mikonui forests and Wanganui Otira Catchment stewardship areas (former State Forests).</p>				
<p>Wanganui</p>	<p>Mouth: Braided large volume river on lower reaches. On left and right banks, Wanganui Riverflat and Oneone Wildlife Management areas (stewardship), adjoined by Wanganui Coastal scenic reserve</p> <p>Most of riverbed zoned stewardship</p> <p>Lower Reaches: Wanganui Riverbed Stewardship area</p> <p>Mid Reaches: contained within Waitaha and Waitangi stewardship areas</p> <p>Upper Reaches: Upper reaches of the Wanganui and tributaries Adams, Lord, Lambert and Evans rivers are in the Adams Wilderness zone.</p>	<p>S.23B</p> <p>Rsvs S.19.1(a)</p> <p>S.25</p> <p>S.25</p> <p>S.25</p> <p>S.20</p>	<p>Nil</p>	<p>Yes</p>	<p>Majority of the river including the riverbed in DOC stewardship land with upper reaches & headwaters in Adams wilderness zone.</p>
<p>Poerua</p>	<p>Mouth: Poerua River Mouth</p>	<p>S.25</p>	<p>River mouth within Te Wahi</p>	<p>Yes</p>	<p>Upper river in Adams wilderness</p>

	<p>stewardship area</p> <p>Lower Reaches: non-contiguous mix of ecological areas, adjoins edge of Westland/Tai Poutini National Park, marginal strips, Dry & Fergusson creek stewardship areas, Waitangi stewardship (former State Forest), plus private farm land.</p> <p>Upper Reaches: river and tributaries all within Adams Wilderness Zone.</p>	<p>S.21</p> <p>S.24(3)</p> <p>S.25</p> <p>Private</p> <p>S.20</p>	<p>Pounamu UNESCO world Heritage area</p>		<p>zone, middle and lower reaches including gorge exit predominantly in stewardship land.</p>
<p>Whataroa, incl Perth</p>	<p>Mouth and Lower Reaches: Braided river in a pocketed mix of classifications: Abut Head scenic reserve, Saltwater Ecological, Mumu Creek and Rotokini government purpose reserves, Whataroa Stewardship, Whataroa Scenic Reserve, private farm land and marginal strips.</p> <p>Middle and Upper Reaches: Whataroa river and headwaters</p>	<p>19.1(a)</p> <p>S.21</p> <p>S.22</p> <p>S.25</p> <p>Rsvs S.19.1(a)</p> <p>Private land</p> <p>S.24(3)</p> <p>s.25</p>	<p>Te Wahi Pounamu UNESCO world Heritage area</p>	<p>Yes</p>	<p>Majority of the river in DOC stewardship land, with the headwaters of the Perth in the Adams Wilderness</p>

	are contained within the Waitangi Forest stewardship area, which then adjoins Aoraki Mount Cook National Park. The mid to upper reaches of major tributary the Perth River are within the Waitangi Forest stewardship area, with the river above Tainui creek within the Adams Wilderness zone	S.20			
Waitangitaona	Mouth & Lower Sections: Mix of private farmland and stewardship Upper: Waitangi Forest stewardship area	S.25 Private Land S.24(3)	Te Wahi Pounamu UNESCO world Heritage area	No	Flat water
Waitangiroto	Mouth & Lower: Nature Reserve Mid and Upper: Mix of nature reserve and Roto Rd stewardship land	Rsvs S.20 S.25	Te Wahi Pounamu UNESCO world Heritage area	No	Flat water, Kotuku breeding area within the Waitangiroto Nature Reserve
Waiho	Mouth and Lower Reaches: Mix of Waiho River stewardship area and private farm land	S.25 Private land National Park	Te Wahi Pounamu UNESCO world Heritage area. Westland Tai	No, refer NZ Whitewater Guide 5	Upper river in National Park. Lower river is substantially in stewardship land.

	<p>Upper reaches River starts at terminus of Franz Josef glacier. It and major tributary the Callery all within Westland Tai Poutini National Park. Major tributary Tatare Stream forms the boundary between Westland Tai Poutini and the Waitangi stewardship zone to the north</p>		Poutini NP		
Omeroa	All of the river from source to sea sits within Westland Tai Poutini National Park	National Park	Westland Tai Poutini NP, Te Wahi Pounamu	No	River in National Park.
Waikukupa	All of the river from source to sea sits within Westland Tai Poutini National Park	National Park	Westland Tai Poutini, Te Wahi Pounamu	No. Refer NZ Whitewater guide 5	River in National Park.
Waikowhai	All of the river from source to sea sits within Westland Tai Poutini National Park	National Park	Westland Tai Poutini, Te Wahi Pounamu	No	River in National Park.
Cook/Weheka, incl Fox	<p>Mouth: within Westland Tai Poutini National Park.</p> <p>Lower Reaches:</p>	National Park	Westland Tai Poutini,	Yes	Similar to the Waiho, upper river in National Park and lower river substantially in

	<p>Cook River stewardship area, private farm land and Westland Tai Poutini National Park.</p> <p>Upper River: Upper Cook river and its tributaries, incl Fox Glacier within Westland Tai Poutini National Park.</p>		Te Wahi Pounamu		stewardship land.
Ohinematea	All of river in Cook to Haast stewardship area	S.25	Nil	No	Flat water, in coastal swamp
Karangarua	<p>Mouth and Lower: Cook to Haast stewardship area</p> <p>Mid & Upper: National Park</p>	S.25 National Park	<p>Westland Tai Poutini,</p> <p>Te Wahi Pounamu</p>	No	
Manakiaiaua				No	
Makawhio				No. Refer NZ Whitewater guide 5	
Mahitahi				No	
Paringa				No	
Moeraki				No. Refer NZ Whitewater guide 5	
Whakapouhai				No	
Waita				No	
Haast				No. Refer NZ Whitewater guide	

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Appendix Five: Statement of support from New Zealand Water Forum

Jennifer Branje

Founder

New Zealand Water Forum

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27 March 2017

SUBMISSION IN SUPPORT;

WAITAHA GRANDMOTHERS EXECUTIVE COUNCIL APPLICATION FOR WATER CONSERVATION ORDERS.

My name is Jennifer Ruth Branje. I am founder of NZ Water Forum. Our group advocates for better water management and freshwater quality throughout New Zealand.

While we are saddened that water advocacy groups are now having to apply for water conservation orders to ensure our waterways are safe, we also see these applications as a way to protect our water resources robustly while setting legal precedent.

It is my considered opinion that current water conservation policies, practises and protocols are seriously lacking in adequate legislation, and the current changes to the RMA may cause further degradation and exploitation of our water resources.

Poor water management and inadequate protections have contributed to our waterways becoming sullied under the pressures of urban growth and dubious agricultural practises. Our aquifers are increasingly exploited to meet private industry needs, and our people collectively incur the costs of cleaning up the environmental damage.

Our pristine water resources are now mined by those who wish to take advantage of our 'nobody owns water' policy, and in doing so reduce our own supplies and quality.

Environment Canterbury is one example of how manipulating local bodies can ensure industry comes before environment and we need to do better.

Govt 'think tanks' are increasing 'loaded' with conflicted interest groups, this is evident in the table below which shows those involved with the Technical Advisory Group on water.

WATER ALLOCATION TECHNICAL ADVISORY GROUP MEMBERS	
Hon David Caygill (Chair)	Local government planning and decision-making, especially for fresh water. Currently an Environment Canterbury Commissioner, has served three terms as a Christchurch City Councillor and six terms as a Member of Parliament where he held ministerial portfolios in Trade and Industry, Health and Finance. He has held numerous senior board appointments. In 2011 he led the panel that reviewed the operation and effectiveness of the New Zealand Emissions Trading Scheme.
Dr Suzie Greenhalgh	Resource economics, environmental and agricultural policy, environmental markets and market-based instruments specialist. Currently Portfolio Leader of the Supporting Business and Policy Portfolio at Landcare Research. Previously a senior economist at Washington DC environmental policy think tank The World Resources Institute. She has worked on a wide range of topics on how to allocate natural resources. Recent work includes the economic impacts of nutrient reduction policies in New Zealand and use of collaboration to set water limits and water policy. PhD (Resource Economics), Ohio State University.
Catherine Harland	Urban water supply and waste management governance, public policy and local government specialist. Board member Watercare Services Ltd. Consultant with a background in research and public policy in local and central government. She has worked for MartinJenkins, The New Zealand Institute and Auckland University of Technology's Institute of Public Policy, and was an elected local government member for 15 years.
Chris Keenan	Primary production horticulture specialist. Manager, Natural Resources and Environment at Horticulture New Zealand, Member of the Land and Water Partnership and the Land and Water Forum, and the National Freshwater Objectives Framework Reference Group. Has led horticulture industry involvement countrywide on water quality and quantity plan changes involving allocation since 2007. He has conjoint qualifications from Lincoln in natural resource management and science.
Craige Mackenzie	Primary production (farm-level dairy and arable), irrigation. Operates a 200 hectare arable cropping property and is a partner in a neighbouring 320 hectare dairy farm milking 1150 cows. Owner-operator of Agri Optics, a precision agriculture company, and Chairman of the Precision Agriculture Association. Member of the Foundation for Arable Research Strategic Research Committee. He has participated in several research programmes and received numerous awards for innovative approaches to farming, including the 2013 National Winner of the Ballance Farm Environment Awards with recognition for nutrient and irrigation management.
Elizabeth Soal	Expertise in irrigation and allocation within and across irrigation schemes. Policy Manager for Waitaki Irrigators Collective. Has a good understanding of irrigation-related issues and policy developments at the regional and national levels. 2014 Churchill Fellow, to study water management and beneficial farming practices in Canada. Currently undertaking a PhD examining changes to the course of freshwater management in New Zealand over time, with a focus on recent transitions to collaborative governance.
Jim Truesdale	Electricity sector expertise, including operational experience, specialising in electricity generation and wholesale electricity market issues. Provides advice to market participants, policy-makers and regulators in New Zealand and overseas. From 1999-2012 he was a Director of Concept Consulting Group. Holds a Masters of Electrical Engineering degree.
Dr Adele Whyte	Iwi development expertise, and science and research (biology). Chief Executive Ngāti Kahungunu. She worked as a technical advisor to the Kahungunu Ki Uta, Kahungunu Ki Tai steering group, was involved in the establishment of the Fisheries & Environment Unit within Ngāti Kahungunu Iwi Incorporated, and was the unit's first director (2010-2013). PhD in biological sciences, and previously a lecturer and researcher at Victoria University School of Biological Sciences.
Dr Roger Young	Expertise in limit setting, integrated catchment management, river ecology, water quality, ecosystem health and freshwater fisheries. Group Manager, Freshwater Sciences Cawthron Institute. His work involves a mix of government-funded research on river ecosystems, and commercial projects assisting a range of clients with freshwater management issues. Has developed new tools for measuring river ecosystem health. A member of the steering group for the Land, Air, Water Aotearoa (LAWA) website. PhD (Zoology), BSc (Hons,

Our native fish species are becoming increasingly threatened due to pollution from various identified sources. Lack of oxygen due to nitrate leaching, over use of fertilisers, dairy effluent, poorly treated sewage discharges, untreated stormwater, the list goes on. Our Councils have proven to be complacent in consenting to discharges to water, and are incapable of giving our waterways the protections required for longevity and abundance.

We clearly need to start thinking outside the box and search for better ways to ensure river health, healthy flows, environmental value and social importance.

It is for these reasons we fully support this application and will continue to support the applicants should conservation orders be granted.

Our communities at grass roots level must be given the tools to maintain, protect and manage their waterways for the betterment of local environments and future generations.

Kindest regards

Jennifer Branje (Mrs)

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Appendix Six: Table summarising river characteristics

Rivers in Waitaha Water Conservation Order						
	River (Latitude/Longitude)	Habitat for terrestrial or aquatic organisms	Fishery	Wild, scenic or other natural characteristic	Scientific/ecological values	Recreational, historical, spiritual and cultural
1	Punakaiki - 42.1982700/171.4001400	Marine protection report 2010. Map Ref BS19622352	White Bait, Fish, shellfish, Kokupu salmon, brown and rainbow trout.	Buller district plan 3.3.1.5. 32.4	Biology. Ecology (Waugh and Bartel 2013) Wood Otley 2013	DOC-Paparoa.MP Brochure. Kohanga Mahingakai Navigation.
2	Waianiwaniwa - 43.4983200/172.0201200	Kingsett, Mitchell, Urs NZ LTD 2006	Harding, McIntosh AR 2006	Shares the same generic values as most of the rivers on the West Coast.	Intrinsic values of all West Coast rivers.	Paparoa Map Ref Bt19569115 wcar.govt.nz
3	Mawheranui - 42.40828/171.38013	Little Blue Penguin, Fur Seal, Skink, Sea Birds, Banded Dotterel, Oyster Catcher, Pied Stilt, Spur Winged Plover	Hector Dolphins, Long fin eels, Brown trout, Kahawai, White Bait, bully, White Bait Spawning.	Page 7 Henk Steng Report Gravel Riparian Grasses, Herbs, Henk and Steng	Halfert. D. Craw.J Pope page 3-5. Rock walls- Flooding, willows, Braided Channels, Map Ref. BT19519994	High Recreation walking, Cycling, surfing, Bird Watching, Angling, White baiting, Swimming. Tourism Scenery, Shipwreck.
4	Kaimata 42.53828800/171.3001300	A Wildlife Service. (1978) B Morse (1981) Eastwood (1997)	White Bait .long and short fin eel. Bully. Map Ref. BU19480879	Shares the same generic values as most, of the rivers on the West Coast.	Appendix 4,3,21. Schedule. 12.270	White water NZ 17 May 2006. OCT.2016. FMC. CLIMB. NZ. Mt-Alex

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5	Taramaku - 42.7382900/171.3001300	Page 254, Schedule 7a	White Bait, Trout Brown-Rainbow, Salmon, Eel NZ Fish.com Schedule 8 page 261 schedule 1a page 265	White Water NZ B Johnson Map Ref. BU19.477862	Gravel Extraction site Schedule Sched.12page271 Schedule 13page 275 Intrinsic values of all West Coast rivers.	Page 259.schdule 7c page 278 schedule 16
6	Arahura - 42.7282900/171.1101300 Wcrc.govt.nz Map Ref BU18384.737	Security site-Whio Conservation Tim Shaw page 6 Blue Duck Schdule.7ar.hitchmough et al 2007.NZ	Brown and Rainbow Trout, Salmon, Eels long and short fin, White Bait, Bully	Parliamentary Commissioner for the Environment, <i>Hydroelectricity or wild rivers? Climate change versus natural heritage</i> (2012), page 115- 116; 120-121.	Pounamu-Boulders Shares the same ecological values as all the rivers on the West Coast	There is "detailed recreational analysis data" according to Nigel Parry Pa-oldest settlement of the West Coast. Tramping. White Water NZ, Kayaking, Tourism
Ownership of the Arahura River granted by the Crown to Ngai Tahu in Treaty Settlement.						
7	Hokitika - 42.9883000/170.9901200 Wcrc.govt.nz Map Ref BU18336 674	Terrestrial Habitat h.s. Eikaas et al 2005 Blue Duck. Schedule 7a R.Hichmough.nz	Brown and Rainbow Trout, Salmon, Kokopu, Long Fin Eels, Short fin Eels, Inganga, Fresh Water Cray Fish.	Parliamentary Commissioner for the Environment, <i>Hydroelectricity or wild rivers? Climate change versus natural heritage</i> (2012) at page 26. Hazard Area Beach- Erosion pg 272 RCp.W.c Conservation Zoning S.25, s.24(3),Private Land, Rsvs 19.1(a)	Ecological Areas David .a. Norton 14/11/2011 West Coast DOC- Directory of Wetlands Don Neale et al 1990 (34 rivers)	Andy England <i>An assessment of white water recreational values of West Coast rivers – White Water kayaking</i> (2011) at page 149-150 Swimming. Walking and Angling. There is "detailed recreational analysis data" according to Nigel Parry

8	Totara - 42.8948493/170.8416193 Wcrc.govt.nz Map Ref. BV18212503	Schedule 7a Short Jaw Kokopu	Brown and Rainbow Trout, Salmon, Long and Short Fin Eels, Silver Belly, White Bait, Fresh Water Crayfish	Conservation Zoning S. 22, Private land, S.25, S.21	Shares the same generic and intrinsic values as all the rivers on the West Coast. Gravel Extract page 76 schedule.a.	Andy England <i>An assessment of whitewater recreational values of West Coast rivers – whitewater kayaking (2011) at page 217- 218</i> There is “detailed recreational analysis data” according to Nigel Parry
9	Mikonui -49.9287/170.7722	Map Ref BV17.179469	Brown and Rainbow Trout, Salmon- Kohanga	Parliamentary Commissioner for the Environment, <i>Hydroelectricity or wild rivers? Climate change versus natural heritage (2012) at page 26.</i> Conservation Zoning- S.25, S.24(3), S.25	Ecological values comparable to all other rivers on the West Cost.	Andy England <i>An assessment of whitewater recreational values of West Coast rivers – whitewater kayaking (2011) at page 181- 182</i> There is “detailed recreational analysis data” according to Nigel Parry
References, Anon (2004) How much is an eco-system worth. Assessing the worth of Conversation. IUCN. The Nature Conservancy./The World Bank. Washington DC 3pp						
10	Waitaha - 43.1283000/170.7601100	Forest Habitat of Long Tail Bats, Lizards green and forest Geckos,		Conservation Zoning - S.24(3), Rsvs 19.1(a), S.25, S.25,	Intact vegetation Native Forest, Ecological values	Andy England <i>An assessment of whitewater</i>

	Wcrc.govt.nz Map Ref: BV17 092 402	Native Snail, 27 Native Bird Species several of these threatened i.e. Whio, Native Falcon, Kaka, Western Weka . Aquatic Variety: Kokapu, Koaro and Koura. Ref:West Power Report		Private land, S.25 Upper Waitaha catchment and Morgan Gorge. Gaston 1990 science for conservation 325	of all West Coast rivers.	<i>recreational values of West Coast rivers – whitewater kayaking</i> (2011) at page 237-239 There is “detailed recreational analysis data” according to Nigel Parry
11	Wanganui - 41.3999984/172.049999 Wcr.govt.nz Map Ref:BV16923321	Reserch Archive Lincoln University. Blue Penguin Breeding threats. Jasmine Braidwood. Schdedule. 7a.R.Hitchmough et al 2007 NZ. Threat.class	Long and Short fin Eels, Silver Belly Eels, White Bait, Fresh Water Crayfish.	Conservation zoning S.23B, Rsvs S.19.1(a), S.25, S.20	Generic characteristics of all West Coast rivers	Andy England <i>An assessment of whitewater recreational values of West Coast rivers – whitewater kayaking</i> (2011) at page 243-244. There is “detailed recreational analysis data” according to Nigel Parry
12	Omoeroa - 43.4383000/170.1101000	Wcrc.govt.nz Map Ref: BW 15 599994	12 indigenous species of fish. Brown and Rainbow trout, Salmon, Long and Short fin Eels, Silver Belly Eels, Fresh Water Cray	National Park	Pg 207 geology. HW Wellman and RW Willett 1942 Intrinsic values of all West Coast rivers.	No detailed recreational analysis data according to Nigel Parry Westland Tai Poutini NP, Te Wahi

			Fish			Pounamu
13	<p>Poerua - 42.0782900/170.4401100</p> <p>Wcrc.govt.nz</p> <p>Map Ref BV 16897296</p>	<p>RM Mc Dowell, MR Maine, DW West, GLyon 1996</p> <p>McDowell 1990</p>	<p>Trout.DOC. RM McDowell 1996, Tlssdell 1994 Miller 1997 McDowell and Eldon 1980.</p> <p>Brown and Rainbow Trout, Salmon Bird/fish pg 283-286 RCP West Coast.</p>	<p>Conservation Zoning</p> <p>S.25, S.21, S.24(3) Private S.20</p>	<p>Science for conservation.279 D Grey JS Harding 2007. SC.SON279</p>	<p>There is "detailed recreational analysis data" according to Nigel Parry</p> <p>Hunting.Tahr</p> <p>River mouth within Te Wahi Pounamu UNESCO world Heritage area</p>
14	<p>Whataroa - 43.1283000/170.3101100</p> <p>Wcrc.govt.nz</p> <p>Map Ref: BW1678221</p>	<p>Duncan Grey 2010- Ecological 27 Species of Water birds 2 exotic species Breeding of Kotuku and Royal Spoon Bill.</p>	<p>12 Species Indigenous Fish, Directory Wetlands NZ Shellfish, Crustacea Invertebrates</p>	<p>Conservation Zoning</p> <p>19.1(a), S.21, S.22, S.25, Rsvs S.19.1(a), Private land, S.24(3) , s. 25, S.20</p> <p>Braided Gravel River Bed</p>	<p>Duncan Grey/ Eco connectivity-2010 Thesis.</p> <p>Diverse eco-system mud flats, open water, sandbars.</p> <p>Diverse plant communities .</p>	<p>There is "detailed recreational analysis data" according to Nigel Parry</p> <p>River mouth within Te Wahi Pounamu UNESCO world Heritage area</p>
15	<p>Waitangitaona - 43.3683000/170.2801100</p> <p>Wcrc.govt.nz</p> <p>Map Ref: BW16 767 206</p>	<p>1967-Change from Whataroa to flow into Okarito catchment.</p> <p>Begon et al 1996 NCCB 1986, 27 Water bird</p>	<p>O'Donnell and Moore 1983</p> <p>12 species indigenous fish</p>	<p>Conservation Zoning</p> <p>S.25, Private Land ,S.24(3)</p>	<p>Generic characteristics of all west coast rivers</p>	<p>No detailed recreational analysis data according to Nigel Parry River mouth within Te Wahi Pounamu UNESCO world</p>

		species.				Heritage area
16	<p>Okarito – (Lagoon)</p> <ol style="list-style-type: none"> 1. Map Ref: BW 16 734 119 2. Map Ref: BW 16 732 113 3. Map Ref: BW 16 731 107 4. Map Ref: BW 15 709 099 5. Map Ref: BW 15 697 102 <p>(43.2583000/170.2301100)</p>	<p>Kokopu, Inganga 27 species of Water birds</p>	<p>Salmon Macpherson (1981) Eeling longfin and short fin Eels, Whitebait, brown and rainbow trout.</p>	<p>Coastal Wetlands Coastal Swamps Coastal Lake Outstanding site.</p>	<p>MJ Vandergoes SJ Fitzsimons Q.S.R 22 (2003) 1461-1476</p>	<p>Boating Fishing, Tramping Hunting</p>
17	<p>Waiho - 43.4183000/170.1701000</p> <p>Wcrc.govt.nz</p> <p>Map Ref: BW 15 618 026</p>	<p>Ward et al 1996 Ascot et al 2002 Peat and Patrick Powler and Death 2000</p>	<p>Long and Short Fin Eels, White Bait, Bully, Kokopu.</p>	<p>Conservation zoning S.25, Private land, National Park</p>	<p>Journal Royal Soc. NZ. Vol.28.1998</p>	<p>No detailed recreational analysis data according to Nigel Parry – but refer to NZ Whitewater Guide 5</p> <p>Te Wahi Pounamu UNESCO world Heritage area.</p> <p>Westland Tai Poutini NP</p>

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18	Waikukupa - 43.4683100/170.1001000 Wcrc.govt.nz Map Ref: BW 15 582 962	Hau.Er and Lorang 2004 Latteral 2006	Brown and Rainbow Trout, Salmon, NZ Fishing regulations .216-217, Long and short Fin Eels, Silver Belly Eels, White Bait Fresh water crayfish.	National Park Reif and Allan 1988	MJ Vandergoes SJ Fitzsimmons Science Review 22 2003 1461-1476 Wardle (1979-1991) NZ. Meteorological sew.1983	No detailed recreational analysis data according to Nigel Parry – but refer to NZ Whitewater Guide 5 Westland Tai Poutini NP, Te Wahi Pounamu
19	Waikowhai - 43.4500000/169.8833300 Wcrc.govt.nz Map Ref: BX 14 442 898	Ward et al 1996 R. Hitchmogh 2007 schedule 7 NZ	Long and Short fin Eels, Silver Belly Eels, Whitebait, Kokopu	National Park	Ecological values comparable to all other rivers on the West Cost.	Westland Tai Poutini NP, Te Wahi Pounamu
20	Cook /Te Wehenga- 43.441737/169.781396 Wcrc.govt.nz Map Ref: BX 14 411 857	Grey et al 2006 Shcdedule .7a .resources mangament.page256 R Hitchmough et al 2007 Nz. Classification	Trout and Birch.NZ Gazette 83.1990. Recreational fishing.nz Brown and Rainbow trout, Salmon, Long and Short fin Eel, Whitebait, Silver Belly Eels, Fresh water crayfish	National Park	Generic characteristics of all West Cost rivers	Fishing Westland Tai Poutini NP, Te Wahi Pounamu
21	Ohinetamatea - 43.4483100/169.7501000 Wcrc.govt.nz	Mosley 1982 a Paradise shell duck, Mallard, Grey Duck, White Face Heron,	Whitebait, Giant Kokopu, Short Jawed Kokopu,	Conservation Zoning S25 Dept. Con	Intrinsic value comparable to all other rivers on the West	Recreational trout fishing, canoeing and Duck Shooting

	Map Ref: BZ 14 384 829	Kotuku, Pukeko	Trout and Perch O'Donell and Dilkes (1986)	1986/1988B Sediment input swamp fluvial action	Coast.	
22	Karangarua - 43.6283100/169.8201000 Wcrc.govt.nz Map Ref: BX 14 378 798	Scares Brook and Townsend 1993	Page 209. Royal Society NZ 1868- 1961. Trout and Perch NZ Gazette 83.1990 Long and short fin Eels, Silver Belly Eels, Crayfish, White bait	Conservation Zoning S25 + National Park	Generic Characteristics of all West Coast rivers	Recreational trout Fishing Westland Tai Poutini NP, Te Wahi Pounamu
23	Manakiaiaua - 43.5883100/169.7401000 Wcrc.govt.nz Map Ref: BX 14 321 723	Wetlands	Brown and Rainbow Trout, Long and Short fin Eels, Salmon, Silver Belly, White Bait, Fresh Water Crayfish	Dobson 1979 Johnson Gerbeaux WONI (2004)	Generic Characteristics of all West Coast rivers	Recreational fishing, Mahi Kai/Traditional camp sites
24	Makawhio - 43.57167/169.67972 Wcrc.govt.nz Map Ref: BX 14 297 703	Abundant vegetation lining both banks	Whitebait, fresh water mussels, browntrout, Salmon	Stat.Ack	Page 209 Wetland Johnson and Gerbeaux (2004)	Waahi Tapu/Waahi Taonga, mahinga kai cultural material. Traditional campsite. Ack area schedule 7c page 259 Hunting – Tahr Fishing Sport Andy England <i>An assessment of white</i>

						<i>water recreational values of West Coast rivers – white water kayaking (2011) at page 175-176 Refer NZ Whitewater guide 5</i>
25	Mahitahi - 43.6983200/169.6201000 Wcrc.govt.nz Map Ref: BX14 246 658	Rimu Rainforest	Whitebait, Longfin and Shortfin Eels, Fresh Water Crayfish and Kokopu.	Chadder et al (2004)	Intrinsic values of all rivers on the West Coast.	Mahi Kai/Traditional Camp site. Nohonga
26	Paringa - 43.6333308/169.433331 Wcrc.govt.nz Map Ref: BX13 123 615	Singers and Rogers Science for Conservation	Brown Trout - Rainbow Trout and Salmon, Longfin and Shortfin Eels, Freshwater crayfish and Whitebait	Wise et al (2011)	Mark. Eco research conversation history Te Wahi Pounamu. Journal. Royal Society. NZ Vol28 1998	Recreational fishing
27	Moeraki - 43.7383200/169.2900900 Wcrc.govt.nz Map Ref: BX12 987 540		Brown Trout, Rainbow Trout and Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White Bait.	Williams et al (2007)	Shares the same generic and intrinsic values of all rivers on the West Coast.	Andy England <i>An assessment of white water recreational values of West Coast rivers – white water kayaking (2011) at page 185</i> Recreational Fishing

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28	Whakapohai - 43.6983200/169.2200900 Wcrc.govt.nz Map Ref: BY12 977 530	Journal of the Royal Society of NZ Simon Nathan, N T Moar 5 Jan 2012 page 313-317	Brown Trout, Rainbow Trout and Salmon		Ecological values comparable to all other West Coast rivers	Recreational Fishing
29	Waita -43.7833302/169.116666	Fisheries Environmental report number 77 1987	Brown Trout, and Rainbow Trout, Salmon, Fresh Water Crayfish	Wcrc.govt.nz Map Ref: BY 12880 441	Generic Characters of all West Coast Rivers	Recreational Fishing
30	Haast - 43.8333300/169.0333300	New Zealand Journals of Geology Vol 33/ Geophysics Vol33/number 1 1990	Brown and Rainbow Trout, Salmon, Long and shortfin Eels ,Whitebait	Wcrc.govt.nz Map Ref: BY 12 819 394	Tectonic Climate and Landscape evolution issue 398 page 341, 339, 344. Geological Society of America 2006	Reactional Fishing
31	Okuru - 43.8999964/168.916663	R Hitchmough 2007, Schedule 7a .NZ	Brown and Rainbow Trout, Salmon,	Wcrc.govt.nz Map ref: BY11 733 306	West Coast Rivers intrinsic and generic format	Recreational Fishing
32	Turnbull - 43.8999964/168.899996	Giant Kokopu, Schedule 7a R.Hitmough.nz page 255	Brown Trout, and Rainbow Trout, Salmon, Fresh Water Crayfish	Wcrc.govt.nz Map Ref: BY 11 70297	Shares the same values as most of rivers on the West Coast.	Recreational Fishing Andy England <i>An assessment of white water recreational values of West Coast rivers – white water kayaking</i> (2011) at page 221-222
33	Waiatoto -	Fisheries Environmental	Brown Trout, Rainbow Trout and	Parliamentary Commissioner for the	Intrinsic values of West	Recreational Fishing

	43.9833294/168.7833 Wcrc.govt.nz Map Ref: BY11 6292907	Report number 84 1987	Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White Bait.	Environment, <i>Hydroelectricity or wild rivers? Climate change versus natural heritage</i> (2012), page 24.	Coast rivers	Andy England <i>An assessment of white water recreational values of West Coast rivers – white water kayaking</i> (2011) at page 225-226 (used by white water rafters)
34	Arawhata - 44.168.5200700/168.5200700	NZ Falcon. Notornis. D. Crockett Lethwick 2001 Meurk 1984	Brown Trout, Rainbow Trout and Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White Bait.	wcrc.govt.nz Map Ref: BY11 534183	Schist and West Coast Rivers Genesis.	Recreational Fishing
35	Pororari -42.12091/171.37639	Lethwick et al 2003a	Brown Trout, Rainbow Trout and Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White Bait.	Wcrc.govt.nz Map Ref: BS 19 627 371	Intrinsic West Coast values.	DOC-Paparoa MP Brochure Recreational Fishing
36	Taipo -42.85004/171.44339	Mark and Dickenson 1997	Brown Trout, Rainbow Trout and Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White	NZ Topo Map 39870	Generic spread along upper regions of southern alps becoming Karamea River	Recreational Fishing Andy England <i>An assessment of white water recreational values of West Coast rivers – white water kayaking</i> (2011) at

			Bait.			page 206-209
37	Waitangiroto (Kotuku Sanctuary) -43.18316/170.33899	Woesier 2000 Poole et al 2004	Brown Trout, Rainbow Trout and Salmon, Longfin and Shortfin Eels, Silver Belly Eels, Fresh Water Crayfish and White Bait.	Conservation zoning Rsvs S.20, S.25	Wcrc.govt.nz Map Ref: BW 16 756 197	River mouth within Te Wahi Pounamu UNESCO world Heritage area Recreational Fishing
38	Cascade – Tahutahi 44.17660/168.46000	CPA.13 page 224 RCP schedule and glossary Water fowl, wadens and marsh birds	Inanga, Longfin and Shortfin Eels, Salmon, Fresh Water Cray Fish, Silver Belly Eels.	SPA 13 page 224 Wcrc.govt.nz Map Ref. BZ10 296 141	Turner 1930 Historical	Page 225 RCP West Coast Recreational Fishing Andy England <i>An assessment of white water recreational values of West Coast rivers – white water kayaking</i> (2011) at page 133-135

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Document 2

From: [Thomas O'Flaherty](#)
To: [Emily Hockly](#)
Cc: [Ashley Procter](#)
Subject: RE: Advice on application for a WCO over 38 rivers on the West Coast and in Southland (legally privileged)
Date: Wednesday, 12 April 2017 3:08:39 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[WCO advice.doc](#)

Hi Emily,

This is excellent! Thanks for putting this together with such speed and thoroughness.

I have a few follow-up questions. There is not much I disagree with, just a few parts where I think expansion would be useful for our briefing note.

I've attached a marked-up version of your opinion.

Separately, I have an additional legal question:

Tania Gerrard suggested that when we provide the Minister with a response, we should also provide the Minister with a letter to send to Ngai Tahu. I have always treated applications as if they are the property of the applicant and have not shared them. Would it be appropriate to write to Ngai Tahu to let them know that we have received the application and that we requested additional information (perhaps also telling them that the additional information requested includes consultation with Ngai Tahu)? Tania's point was that the lack of consultation with Ngai Tahu was the most glaring omission in the application and that we have obligations to Ngai Tahu to keep them abreast of affairs that concern them. What do you reckon?

From: Emily Hockly
Sent: Tuesday, 11 April 2017 5:05 p.m.
To: Thomas O'Flaherty
Cc: Ashley Procter
Subject: Advice on application for a WCO over 38 rivers on the West Coast and in Southland (legally privileged)

Hi Thomas,

Please find attached my finalised advice on the WCO application for 38 water bodies.

It's fairly wide ranging and I took a slightly different tack than you might have expected from your questions in order to address whether the application meets the requirements of the RMA (and from there to get to the outstandingness question).

Due to the length of the advice I put it in our legal opinion template.

I hope it's useful. Please do not hesitate to ask any follow up questions. Ashley provided peer review and I've copied her in so we can each stay across the two WCO applications.

Cheers,

Emily

Emily Hockly – Senior Solicitor, Legal

Ministry for the Environment – Manatu Mo Te Taiao

Mobile: 022 066 0295 Email: emily.hockly@mfe.govt.nz Website: www.mfe.govt.nz

No.3 The Terrace, PO Box 10362, Wellington 6143

I have flexible working hours and am not in the office on Wednesdays.

Please note the content of this email may be legally privileged and confidential - please check with the author before forwarding any of this content outside the Ministry for the Environment.



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Document 3

From: [Thomas O'Flaherty](#)
To: [Reece Martin](#)
Cc: [Tikitu Tu-Nathan](#); [Stephen Fragaszy](#)
Subject: RE: Two new water conservation order applications
Date: Tuesday, 23 May 2017 11:02:08 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Thanks Reece,

This is very helpful.

We appreciate your prompt response and agree with your comments in the note.

Kind regards,
Thomas

From: Reece Martin [mailto:martr@tpk.govt.nz]
Sent: Tuesday, 23 May 2017 10:48 a.m.
To: Thomas O'Flaherty
Cc: Tikitu Tu-Nathan; Stephen Fragaszy
Subject: RE: Two new water conservation order applications

Kia ora Thomas

Please find attached our TPK comments on your draft briefing. Overall, our thinking is very aligned with yours and we agree that more information is required in order to be able to properly assess the application.

We have refrained from contacting our regional TPK office to discuss the application as we think it'd more appropriate to do this once more information is sought/received from the applicant. We can do this once there is a more information on the cultural aspects of the application.

Please get back to Tikitu or I if you have any further questions etc.

Nga mihi
Reece

Reece Martin
Contractor
National Office



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PO Box 3943, Wellington 6140, New Zealand



[Te Puni Kōkiri Website](#)



[Kōkiri Magazine](#)



[Facebook](#)

From: Thomas O'Flaherty [mailto:Thomas.OFlaherty@mfe.govt.nz]
Sent: Thursday, 18 May 2017 5:12 p.m.
To: Reece Martin <martr@tpk.govt.nz>
Cc: Tikitu Tutua-Nathan <natht@tpk.govt.nz>; Stephen Fragaszy <Stephen.Fragaszy@mfe.govt.nz>
Subject: RE: Two new water conservation order applications

Hi Reece,

I attach our draft briefing note for the water conservation orders for 38 rivers on the West Coast.

We would appreciate any feedback that TPK have. If you do have any feedback, would you please be able to provide it by close of business on Tuesday (23 May)? Again, I apologise for requesting a quick turnaround.

I will send through our draft briefing note for the West Coast application when that is ready.

Please let me know if you have any questions.

Kind regards,
Thomas

From: Reece Martin [<mailto:martr@tpk.govt.nz>]
Sent: Tuesday, 9 May 2017 1:41 p.m.
To: Thomas O'Flaherty
Cc: Tikitu Tu-Nathan
Subject: FW: Two new water conservation order applications

Kia ora Thomas

Out of Scope

Nga mihi
Reece

Reece Martin
Contractor
National Office



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[Kokiri Magazine](#)



[Facebook](#)

From: Thomas O'Flaherty [<mailto:Thomas.OFlaherty@mfe.govt.nz>]
Sent: Thursday, 4 May 2017 7:56 p.m.
To: Tikitu Tutua-Nathan <natht@tpk.govt.nz>
Cc: Jo Burton <Jo.Burton@mfe.govt.nz>; Stephen Fragaszy <Stephen.Fragaszy@mfe.govt.nz>; Reece Martin <martr@tpk.govt.nz>
Subject: RE: Two new water conservation order applications

Kia ora Tikitu

Out of Scope

I will send through our draft briefing note for the West Coast application when that is ready.

Let me know if you have any questions.

Kind regards,
Thomas

From: Tikitu Tutua-Nathan [<mailto:natht@tpk.govt.nz>]
Sent: Tuesday, 2 May 2017 11:16 a.m.
To: Thomas O'Flaherty
Cc: Jo Burton; Stephen Fragaszy; Reece Martin
Subject: RE: Two new water conservation order applications

Kia ora Thomas,

Thanks for the discussion, and the attached papers. It would be useful if you could send through a copy of both applications, as this will assist us in consideration of any comments or background information that we may have. A copy of the draft Te Waikoropupu springs and West Coast briefing would also be useful. We will look to provide feedback shortly after receiving these papers.

Nga mihi,

Tikitu

Tikitu Tutua-Nathan
Principal Policy Analyst
Te Puni Kokiri, National Office

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PO Box 3943, Wellington 6140, New Zealand

From: Thomas O'Flaherty [<mailto:Thomas.OFlaherty@mfe.govt.nz>]
Sent: Monday, 1 May 2017 9:45 a.m.
To: Tikitu Tutua-Nathan <natht@tpk.govt.nz>
Cc: Jo Burton <Jo.Burton@mfe.govt.nz>; Stephen Fragaszy <Stephen.Fragaszy@mfe.govt.nz>
Subject: Two new water conservation order applications

Hi Tikitu,

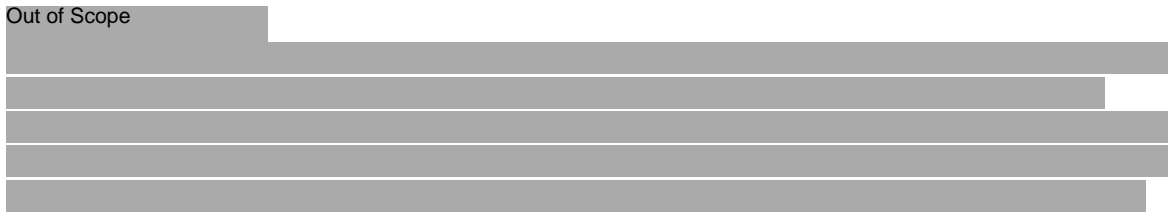
Thank you for your time on the phone earlier. As discussed, the Ministry has received two new applications for water conservation orders. I have attached summary documents of each of the applications to this email.

We are interested in any comments that TPK might have and any useful background that might assist our understanding of the applications themselves. I will share a draft of the Te Waikoropupu Springs briefing note this week and the West Coast briefing note at a later date.

38 Rivers in the West Coast

The Waitaha Executive Grandmother's Council (WEGC), a Maori community group made up of women from various iwi around the country have applied for a water conservation order for 38 rivers in the West Coast of New Zealand. The Federated Mountain Clubs of New Zealand, Whitewater New Zealand, and the New Zealand Water Forum have provided letters in support of the application (though they are not joint applicants). The application is relatively light on detail and does not contain the usual level of background information we have come to expect from a water conservation order application. We will be providing the Minister with advice on whether he should reject, accept or request further information from the applicant next month.

Out of Scope



Out of Scope

Please let me know if you would like a copy of either application or if you have any questions.

Kind regards,

Thomas O'Flaherty – Senior Policy Analyst, Environmental Limits

Ministry for the Environment – Manatu Mo Te Taiao

Mobile: 021 266 6303 Email: Thomas.OFlaherty@mfe.govt.nz Website: www.mfe.govt.nz

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Document 4

Some information from this document has been removed, as it is out of scope. The extract below is released under s16(1)(e) of the Act.

From: [Thomas O'Flaherty](mailto:Thomas.O'Flaherty)
To: [Stephen Fragaszy](mailto:Stephen.Fragaszy)
Subject: FW: Two new water conservation order applications
Date: Tuesday, 23 May 2017 2:41:06 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

As expected.

From: Christopher Rendall [<mailto:crendell@doc.govt.nz>]
Sent: Tuesday, 23 May 2017 1:46 p.m.
To: Thomas O'Flaherty
Cc: Stephen Fragaszy
Subject: RE: Two new water conservation order applications

Hi Thomas,
We have no comments – advice seems reasonable.
Thanks,

Chris Rendall

Senior National Advisor RMA - *Kaitohu Matua a Motu - Penapena Rawa*
Department of Conservation - *Te Papa Atawhai*
s 9(2)(a)

Conservation House - *Whare Kaupapa Atawhai*
18 - 32 Manners Street | PO Box 10420, Wellington 6143
T: +64 4 471 0726

Conservation leadership for our nature - *Takina te hi, Tiakina te ha, o te ao turoa*

www.doc.govt.nz

From: Thomas O'Flaherty [<mailto:Thomas.O'Flaherty@mfe.govt.nz>]
Sent: Thursday, 18 May 2017 5:14 p.m.
To: Christopher Rendall <crendell@doc.govt.nz>
Cc: Stephen Fragaszy <Stephen.Fragaszy@mfe.govt.nz>
Subject: RE: Two new water conservation order applications

Hi Chris,

I attach our draft briefing note for the water conservation order application for 38 rivers on the West Coast.

We would appreciate any feedback that DoC have. If you do have any feedback, would you please be able to provide it by close of business on Tuesday (23 May)? Again, I apologise for requesting a quick turnaround.

Please let me know if you have any questions.

Kind regards,
Thomas



To: Hon Dr Nick Smith, Minister for the Environment

Water Conservation Order application for 38 rivers on the West Coast

Other Dept Tracking Number:	N/A	MfE Tracking Number:	2017-B-03822
Date Submitted:	25 May 2017	MfE Priority:	Medium
Security Level:	IN CONFIDENCE	Number of Attachments:	Five
Action Sought:	Response	Response/Signature Needed by:	1 June

Ministry for the Environment Contacts

Position	Name	Telephone (cell)	Telephone (work)	1st Contact
Principal author	Stephen Fragaszy	021 025 52260		
Responsible Manager	Jo Burton	022 066 1645		✓
Director	Martin Workman	029 894 0577		

Executive Summary

1. You received an application on 29 March 2017 for a water conservation order (WCO) for 38 rivers in the West Coast from the Waitaha Executive Grandmother's Council (WEGC), a Māori community group made up of women from various iwi around New Zealand. The Federated Mountain Clubs of New Zealand, Whitewater New Zealand, and New Zealand Water Forum provided evidence and statements of support for the application. Appendix 1 provides a summary of our analysis of the application.
2. The purpose of a WCO is to recognise and sustain outstanding amenity or intrinsic values of water bodies. Applications are made to you as the Minister for the Environment, and you must decide whether to refer the application to a special tribunal, reject the application, or request further information to help make this decision.
3. This is an entirely unprecedented WCO application as it seeks to protect 38 rivers that are not hydrologically connected. ^{s 9(2)(h)}
s 9(2)(h)
4. The application does not meet the statutory requirements of a WCO application and a special tribunal would not be able to evaluate the application in its current form.
5. Further complicating the application, two rivers (Grey and Buller) already have WCOs that would require amendment, and Ngāi Tahu has specific governance regimes on multiple rivers in the application.
6. We consider that the application should not be rejected on the basis of incompleteness and deficiencies without first giving the applicant the opportunity to provide further information. We recommend that you request further information on the matters listed below. If you agree with this recommendation, we have prepared a letter to the applicant for you to sign (attached at Appendix 2).
7. We consider that further information on the following issues is needed before this application could be referred to a special tribunal:
 - a. more specificity about the river systems;

- b. integrated and complete evidence of outstanding values the applicant seeks to recognise and sustain in each of the 38 rivers and how these relate to the restrictions sought;
 - c. the restrictions sought for each river;
 - d. the results of preliminary consultation with concerned stakeholders and other primary and secondary industry bodies; and
 - e. discussion of the WCO in relation to existing plans and policies.
8. If you choose to request further information, we propose in the first instance to invite the applicant to a workshop to discuss the information requirements.

Situation Analysis

9. You received an application on 29 March 2017 for a WCO for 38 rivers in the West Coast. The application is attached at Appendix 5. Waitaha Executive Grandmother's Council posted the application in its entirety on their website.
10. The applicant provided the fee for a single WCO application and requested that MfE treat it as a single application. ^{s 9(2)(h)} [REDACTED] ^{s 9(2)(h)} An outline of the statutory process related to WCOs is shown in Appendix 3.

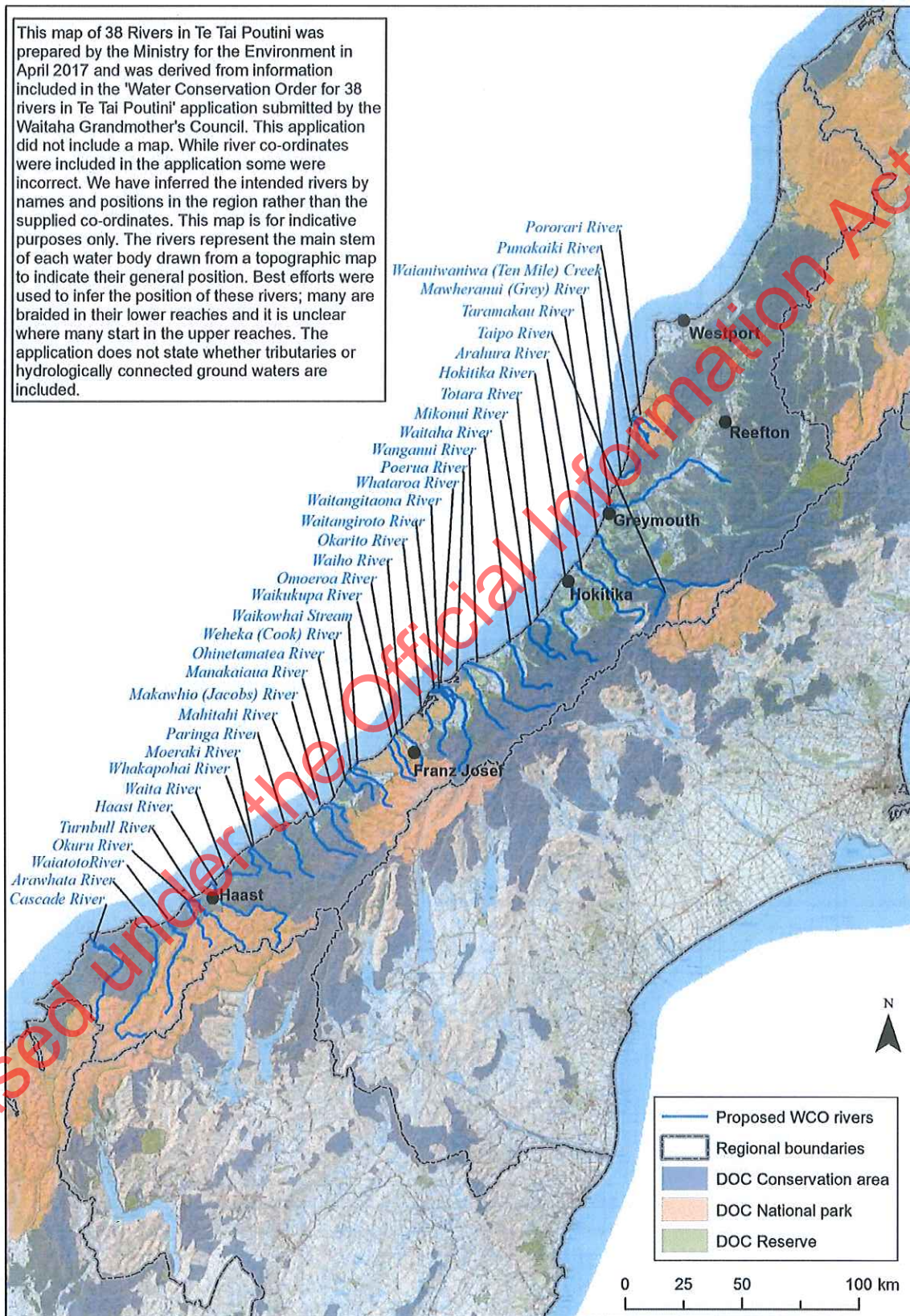
The Applicant

11. The applicant is the Waitaha Executive Grandmother's Council (WEGC), a Māori community group comprising women from various iwi around the country. The majority of the women are from North Island tribes, and they currently live all over New Zealand and abroad. Some WEGC members share a direct genealogical link to the Waitaha iwi and Waitaha River area in West Coast, but most members do not have a link to Waitaha or Ngāi Tahu (the governing iwi).
12. WEGC stated explicitly that they do not have any settled claims and by extension do not belong to the hapū of Waitaha subsumed within Ngāi Tahu. It is difficult to ascertain whether or not the group has a Treaty claim; however, all historical Treaty claims (pre-1992) in the area of interest have been settled by the Ngāi Tahu Claims Settlement Act 1998 (the Settlement Act).
13. The Federated Mountain Clubs of New Zealand, Whitewater New Zealand, and New Zealand Water Forum provided evidence and wrote statements of support for the application.

The Application

14. The application is for the 38 rivers shown in the map below. The applicant links the 38 rivers into a contiguous unit, the western watershed of the Southern Alps, through the principle of tikanga Māori.
15. The rivers share a range of hydrological, ecological and development characteristics:
- a. hydrology: originating in the Southern Alps and high-precipitation temperate rainforest environments (more than 5 metres per annum), many of these rivers are glacial in origin, and all are short, have relatively small catchment areas, high base-flow and flood on a near-weekly basis;
 - b. ecology: these rivers provide habitat for a variety of indigenous fish and endangered bird and plant species, and they link with a range of coastal lagoon types; and
 - c. development: these rivers are notable for being predominantly unmodified without major infrastructure development.

16. The rivers and their tributaries flow through land under various Department of Conservation (DOC) stewardship and management regimes including Fiordland, Mount Aspiring, Aoraki, and Tai Poutini National Parks as well as the Te Wahipounamu – South West New Zealand UNESCO World Heritage area as shown in the map below.



Outstanding values identified and protections sought through the WCO

17. The application identifies the following outstanding values of the rivers:
 - a. in accordance with tikanga Māori (s199(2)(c));
 - b. for recreational purposes (s199(2)(b)(v)); and
 - c. wild, scenic or other natural values (s199(2)(b)(iii)).
18. The applicant seeks a WCO to cover each river with a provision similar to Section 3 of the National Water Conservation (Motu River) Order 1984 that states: "*It is hereby declared that the river shall be preserved as far as possible in its natural state.*"
19. The applicant also seeks to ban the following activities where scientific evidence has proven the activities to be harmful to the river and surrounding environment:
 - a. large-scale takings of water for commercial purposes;
 - b. diversion or damming of water for electricity generation;
 - c. any activity that blocks fish passage in the water body;
 - d. discharge of chemicals into water;
 - e. mining in or near to water bodies; and
 - f. extraction of gravel, minerals and other resources from river beds.

Analysis of the Application

Perspective of the applicant

20. The applicant acknowledges the unprecedented scope of the application in relation to past WCOs and the challenge of bundling 38 rivers in one application. The applicant has bundled the application through the concept of tikanga Māori and because of the perception that the rivers share common management and conservation features.
21. Because the application treats all the rivers together as a coherent and total unit, the application includes little specific information on each individual river. Even as a unit, the information is deficient to meet the application requirements.

Stated reasons for the WCO application

22. The applicant described perceived intrusion of "environmentally destructive" initiatives in the largely "pristine and wild" area covered by the application, and the inadequacy of existing legal and conservation mechanisms, as the impetus for the application. The application includes references to the Waitaha River hydropower development scheme and the water take consent on the Arawhata River as specific examples.

Water bodies identified in the application

23. The application is deficient in its description of the water bodies to be included in the WCO. It lists only the name and a single latitude and longitude reference point for each river. In several cases these reference points do not coincide with the river named in the application.
24. This ambiguity is problematic given that WCOs must recognise and sustain outstanding values of the water body, and the values may or may not depend on the entire river system and hydrologically linked groundwater. This is not discussed in the application.

Outstanding values identified – tikanga Māori and tangata whenua interests

25. The application provides significant detail and evidence in relation to the rivers' outstanding contribution to tikanga Māori values. Because WEGC is a group without mana whenua for the area of the application, their views on cultural values may need to be substantiated by iwi with mana whenua in the region, Ngāi Tahu. Several areas and sites mentioned in the application already have specific protective provisions accorded

to Ngāi Tahu¹ and the application provides no evidence that they are inadequately protected.

26. The Settlement Act provides specific governance regimes and authority to Ngāi Tahu for multiple rivers and adjacent land areas covered by the WCO application such as for the Arahura River catchment². Ngāi Tahu has mana whenua and tangata whenua in the entirety of the area for which WEGC are applying for a Water Conservation Order.
27. Without mana whenua in the region, WEGC have weak standing to claim the cultural values they have listed – that prerogative primarily belongs to Ngāi Tahu. The applicant could approach Ngāi Tahu to ascertain cultural values and other related matters.

Outstanding values identified - recreation

28. The evidence presented in the application related to recreational values focus on the rivers as a unit, and for each river is deficient since differentiation between the values associated with each river is nearly absent.
29. Appendix B of the application states that “detailed recreational analysis data” are present for numerous rivers but does not provide the data or otherwise indicate what those data include. Appendix Six of the application lists recreational values for each river, though that information is insufficient because for many rivers it includes:
 - a. only the types of recreation present;
 - b. references to source documents that cannot be located from the provided information; or
 - c. references to source documents that do not discuss the river listed, except in certain cases where the document discusses a tributary to the river listed that has not been named explicitly in the application.

Outstanding values identified – wild, scenic or other natural values

30. Similar to the evidence provided for recreation values, the application describes the rivers’ wild, scenic and natural values as a unit and presents limited information to assess the character and values of each river individually. Similar deficiencies in documentation occur as discussed in relation to recreation values.

Purpose and proposed protective provisions of the WCO

31. The stated purpose of the WCO (see paragraph 19) follows earlier WCOs. However,
s 9(2)(h)

[Redacted]

s 9(2)(h)
[Redacted]

32. The application does not discuss the impact these provisions would have on the water bodies or how they would protect the identified outstanding values.

Consultation and policy discussion – s207 criteria

¹ eg., Whakopohai and Punakaiki, respectively s146 and schedule 95 of the Settlement Act.

² s324-326 of the Settlement Act.

s 9(2)(h)
[Redacted]

33. The application does not address in adequate depth any of the themes set out in s207 directly. These are: needs of primary and secondary industry and the community, and relevant planning and policy provisions.
34. The statement of support from Whitewater New Zealand discusses relevant policy provisions in a cursory manner without detail on how the WCO would affect existing plans.
35. Two of the rivers already have WCOs on parts of their reaches and the Settlement Act provides specific governance regimes and authority to Ngāi Tahu for multiple rivers and adjacent land areas covered by the WCO application⁴. There is no consideration of these issues in the application.
36. The nearly complete absence of discussion of s207 themes is a critical omission from a legal point of view as it means the basic requirements of the RMA for an application are not met.

Regional planning context

37. The West Coast Land and Water Plan became operative in May 2014. Proposed changes to the Plan were notified in August 2016. The council has not yet held hearings for submissions to the plan changes. The Plan changes were not the impetus for the application, and proposed changes are largely unrelated to the contents of the WCO application.

Waitaha hydropower consent

38. Westpower Limited has applied for a concession from DOC to operate a hydropower project on the DOC estate in the Waitaha river catchment. DOC is currently reviewing submissions on the proposed Waitaha hydropower scheme. DOC received a significant number of submissions (3,264) submissions following notification of its intention to grant the concession to Westpower Limited, which indicates strong public interest in the proposal.
39. The proposed project is a run-of-the-river scheme that would divert river flows above the Morgan Gorge and return them below the gorge via a tunnel. The proposal has received significant media attention because many people view the gorge as an iconic land feature representative of New Zealand's national character.

Advice

40. The perspective of the application is to treat the rivers, which together constitute the watershed of the Southern Alps, as a single unit. The information presented in the application is consistent with this approach and inadequate if the special tribunal were to consider the WCO application in this framework.
41. The RMA provides for WCOs to protect a water body that is outstanding. Outstandingness is assessed at a national level. Therefore, when presented with an application for multiple water bodies, a special tribunal would likely need to assess the merit of the application on the basis of each water body's value (or values). As such, the application is highly deficient in its present form. The application is wide-reaching, lacks substantive content and does not meet statutory requirements.
42. However, we consider the application should not be rejected outright in light of the grounds for WCO application rejection (shown in Appendix 4). This application meets some technical requirements and is neither frivolous nor vexatious because it:
 - a. identifies and seeks to address an issue of national concern as evidenced by the submissions response to the Waitaha hydropower consenting process as well as intense and sustained public interest in the Clean Water package;

⁴ s324-326 of the Settlement Act.

- b. has the support of three national organisations; and
 - c. includes the beginnings of an evidence base.
43. Our recommendation is to request further information as outlined below and organise a workshop with the applicant to discuss how the applicant may refine the application.
44. We recommend that you request further information on matters related to:
- a. s201(a) - the water bodies concerned;
 - b. s200 - the protective provisions sought;
 - c. s201(c) – the effect the provisions sought would have on the water bodies;
 - d. s199(2)(b)(iii), s199(2)(b)(v), and s199(2)(c) – the outstanding values to be sustained; and
 - e. s207(b) and s207(c) – needs of primary and secondary industry, and the community, and relevant provisions of existing plans and policies.

Conducting a workshop with the applicant

45. It is acceptable to run a workshop with the applicant, make recommendations about process, and explain how to get information, etc.

s 9(2)(h)

s 9(2)(h)

Legal Advice

s 9(2)(h)

s 9(2)(h)

s 9(2)(h)

s 9(2)(h)

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s 9(2)(h)

s 9(2)(h)

s 9(2)(h)

Risks and Mitigations

57. It is not uncommon for Ministers to request applicants provide further information for WCO applications. Doing so does not engender risk in itself, though it could raise the applicant's expectations about the future prospects of the application. Running a workshop with the applicant could amplify this risk.
58. To mitigate these risks, we have included an explanation in the letter to the applicant that the information is needed for your decision about whether to appoint a special tribunal or to reject the application and the overall application requirements. If the applicant chooses to attend the workshop, we will repeat these core messages.
59. The response to this application will likely garner media attention given that its announcement was the subject of a Radio New Zealand article and the applicant has published the application. The Grandmothers are a charismatic and relatively well-known group, and their overall work and mission is recognised as beneficial to the community. If there is any need for the Ministry to respond publicly about the WCO application, the response will consider these points.

Legal risk

s 9(2)(h)

Financial, Regulatory and Legislative Implications

61. Previous WCO applications have taken on the order of five years to process. Administering the special tribunal for a regular WCO can cost on the order of \$800,000. The RMA provides no opportunity to recover costs for this and costs are met through the Ministry's baseline funding.
62. This application would be orders of magnitude more complicated to process because it deals with 38 rivers; its cost and processing time would, in all likelihood, greatly exceed that of past special tribunals.
63. If this application proceeds successfully through the RMA process, the WCO would be made by the Governor-General by Order in Council.

Consultation

64. We have discussed this application with relevant teams in the Ministry for the Environment, Department of Conservation and Te Puni Kōkiri.

65. Te Puni Kōkiri (TPK) agrees with the recommendations and analysis presented here. TPK would expect the applicant to provide further information on their understanding of the catchments from a cultural perspective given the identification of tikanga Māori as an outstanding value. Additionally, TPK would expect the applicant to consult with Ngāi Tahu (Te Rūnanga o Ngāi Tahu), the local runuka (Te Rūnanga o Ngati Waewae & Te Rūnanga o Makaawhio), and the relevant iwi authorities.
66. The Department of Conservation agrees with the recommendations and analysis presented here and provided no further commentary.

Next steps


67. If you choose to request further information, we propose to invite the applicant to a workshop. The purpose of this workshop would be to discuss with WEGC how they might fulfil the information requirements for the application.
68. There are no other formal steps that may be taken until the further information is received. Once the information is received, we would provide a briefing to you for your decision on whether to appoint a special tribunal, reject the application or ask for further clarifying information.

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Recommended Action

We recommend that you:

- a) **Note** that the Applicant has applied for a Water Conservation Order for 38 rivers in the West Coast and has supplied the appropriate application fee;
- b) **Note** that you are required to make a statutory decision to request further information, reject the application, or send the application to a special tribunal;
- c) **Note** that the application does not meet the statutory requirements of a WCO application and a special tribunal would not be able to evaluate the application in its current form;
- d) **Agree** to seek further information from the applicant; Yes / No
- e) **Sign** the attached letter to the applicant requesting further information in respect of:
 - a. RMA s199(2)(b)(iii), s199(2)(b)(v), and s199(2)(c) – the outstanding values to be sustained;
 - b. RMA s200 - the protective provisions sought;
 - c. RMA s201(a) - the water bodies concerned;
 - d. RMA s201(c) – the effect the provisions sought would have on the water bodies; and
 - e. RMA s207(b) and s207(c) – needs of primary and secondary industry, and the community, and relevant provisions of existing plans and policiesYes / No
- f) **Agree** for Ministry staff to propose and, if the offer is accepted, host a workshop with the applicant to discuss options to fulfil the information requirements with them Yes / No


 Martin Workman
 Director
 Water Directorate

Date 29/5/17

Hon Nick Smith
 Minister for the Environment

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fell short of my expectations in some respects			3 = Met my expectations	
4 = Met and sometimes exceeded my expectations		5 = Greatly exceeded my expectations			

Appendix 1: West Coast WCO application summary

This summary provides an overview of the application's completeness and adequacy in fulfilling legal requirements for an application according to Part 9 of the RMA.

The scorecard reflects the principal author's best judgment. Scoring is from 0 to 5 with 0 indicating the information is absent, 1 indicating the information is highly deficient, 3 indicating the information meets minimum standards and 5 indicating the information is complete and highly sufficient.

Requirement	Issues to assess	Score	Comment
Water body identified	The water body concerned is defined in sufficient detail	1	See paragraphs 24-25
The reasons for the application are stated with reference to: (a) The purpose of water conservation orders (s 199)	i) Values identified	3	
	ii) Evidence provided	2	Evidence given for rivers as a unit
	iii) Detail sufficient for assessment	1	In many cases evidence given is highly limited or unavailable
(b) The meaning of water conservation orders (s 200)	i) Conditions proposed	1	Basic statement acceptable, but several specific protections sought in application are not permissible
	ii) Detail sufficient for assessment	2	Protections that may be permissible lack specificity appropriate for a WCO
(c) The matters to be considered by the Special Tribunal in considering the application (s 207)	i) Needs of primary and secondary industry and community identified	0	
	ii) Relevant planning provisions identified	1	Discussed only briefly in a supporting statement; not referenced in application
	iii) Detail sufficient for assessment	1	Limited and at times contradictory
The application	(a) describes provisions to be included in a water conservation order	2	Provisions present but not permissible or lack specificity
	(b) explains the relationship of the proposed provisions and the purpose of the WCO.	1	Discussed in broad and vague terms
	(c) identifies the effect that such provisions would have on the water body	0	

Appendix 2: Letter to the Applicant for your signature – Request Further Information

17-B-03822

Aimee Paterson
Morrison Kent House
PO Box 10035
Wellington 6143

Dear Aimee

Request for further information for your Water Conservation Order application

Thank you for your application for a Water Conservation Order for 38 rivers on the West Coast and for the payment of the application fee, which was received at the Ministry for the Environment on 29 March 2017.

I have read your application and have no objection in principle to applying a Water Conservation Order to multiple rivers. However, I consider that there are several matters that need to be described more clearly in the application before I can make a decision on whether to appoint a special tribunal to hear and report on the application, or to reject the application.

Section 201(2)(a) of the Resource Management Act (RMA) requires you to identify the water body concerned in the application. You have named the rivers, but this is insufficient to define the water bodies that would be the subject of the Water Conservation Order and identify the land areas that would be affected.

You have described in general terms what you want the Water Conservation Order to achieve. However, the provisions you seek are not specific enough to meet the requirements of RMA section 200. Also, you have not discussed the effect the suggested provisions will have on the rivers as required by RMA section 201(2)(c). I draw your attention to section 200 of the RMA and the sorts of restrictions or prohibitions that Water Conservation Orders may contain.

You have identified the outstanding values of the rivers to be sustained through the Water Conservation Order. However, you have primarily described the values of the rivers as an integrated whole rather than on a water body by water body basis. I consider this information is needed to enable a special tribunal to assess the proposal properly.

You have not included in your application any assessment of the needs of primary and secondary industry, and of the community, as required by section 201(2)(b) of the Act (which incorporates the matters in s207(b) of the Act). Also, you have not discussed the relevant provisions of policy statements and plans as required by section 201(2)(b) (incorporating the matters in section 207(c) of the Act).

Given the wide scope of your application, it is critical that you address all of these matters.

Accordingly, I request you provide further information on the following matters:

- a. RMA s201(a) - the water bodies concerned;
- b. RMA s200 - the protective provisions sought;
- c. RMA s201(c) – the effect the provisions sought would have on the water bodies; and
- d. RMA s199(2)(b)(iii), s199(2)(b)(v), and s199(2)(c) – the outstanding values to be sustained; and
- e. RMA s201(b) and by incorporation s207(b) and s207(c) – needs of primary and secondary industry, and the community, and relevant provisions of existing plans and policies.

If you need any further advice on the application process, please contact Thomas O’Flaherty or Jo Burton at the Ministry for the Environment – 04 439 7400.

Yours sincerely

Hon Nick Smith
Minister for the Environment

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Appendix 3: Outline of statutory process for WCOs (Part 9 of the Resource Management Act)

1. The purpose of a 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.
2. WCOs recognise and sustain outstanding amenity or intrinsic characteristics of water bodies. This is a high threshold and there are currently 15 WCOs in force, two of which are for rivers included in this application for a WCO.
3. Any person may, upon payment of the prescribed fee, apply to you for the making of a WCO.
4. Applications are required to -
 - a. identify the water body concerned
 - b. state the reasons for the application with reference where practicable, to
 - i. the purpose of a WCO -;
 - ii. restrictions or prohibitions to be imposed on the exercise of the regional council's powers to control discharges and the taking, use, damming and diversion of water
 - iii. the needs of primary and secondary industry, and of the community; and
 - iv. relevant provisions of RMA policy statements and plans
 - c. describe the provisions which, in the applicant's opinion, should be included in the WCO.
5. After receipt of the application you may ask the applicants for further information and make any inquiries in respect of the application that you consider necessary. You must then either appoint a special tribunal to hear and report on the application or reject the application.
6. If you decide to refer the application to a special tribunal, you must consult with the Minister of Conservation and the Minister of Māori Affairs about the membership of the tribunal.
7. After a special tribunal is appointed, the application is publicly notified and submissions called for. Any person may make a submission and the tribunal will then hold a public hearing. The tribunal then prepares a report on the application with a recommendation.
8. Submitters then have the opportunity to make a further submission to the Environment Court. If submissions are made the Environment Court will hold a hearing and make a recommendation to the Minister on whether the WCO should be made.
9. The Minister for the Environment must consider the recommendation of either the special tribunal or the Environment Court and decide whether or not to recommend to the Governor-General to make the WCO.
10. If a special tribunal or the Environment Court recommends that a water conservation order be made, and the Minister decides not to accept that recommendation, then the Minister must lay before the House of Representatives a written statement that explains the reasons for the decision.

Appendix 4: Past legal advice on grounds for rejection of WCO application

s 9(2)(h)



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s 9(2)(h)

Appendix 5: Water Conservation Order application for 38 rivers in Te Tai Poutini

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Office of Hon Dr Nick Smith

MP for Nelson

Minister for the Environment

Minister for Building and Construction

Appendix 2

Aimee Paterson
Morrison Kent House
PO Box 10035
Wellington 6143

Dear Aimee

Request for further information for your Water Conservation Order application

Thank you for your application for a Water Conservation Order for 38 rivers on the West Coast and for the payment of the application fee, which was received at the Ministry for the Environment on 29 March 2017.

I have read your application and have no objection in principle to applying a Water Conservation Order to multiple rivers. However, I consider that there are several matters that need to be described more clearly in the application before I can make a decision on whether to appoint a special tribunal to hear and report on the application, or to reject the application.

Section 201(2)(a) of the Resource Management Act (RMA) requires you to identify the water body concerned in the application. You have named the rivers, but this is insufficient to define the water bodies that would be the subject of the Water Conservation Order and identify the land areas that would be affected.

You have described in general terms what you want the Water Conservation Order to achieve. However, the provisions you seek are not specific enough to meet the requirements of RMA section 200. Also, you have not discussed the effect the suggested provisions will have on the rivers as required by RMA section 201(2)(c). I draw your attention to section 200 of the RMA and the sorts of restrictions or prohibitions that Water Conservation Orders may contain.

You have identified the outstanding values of the rivers to be sustained through the Water Conservation Order. However, you have primarily described the values of the rivers as an integrated whole rather than on a water body by water body basis. I consider this information is needed to enable a special tribunal to assess the proposal properly.

You have not included in your application any assessment of the needs of primary and secondary industry, and of the community, as required by section 201(2)(b) of the Act (which incorporates the matters in s207(b) of the Act). Also, you have not discussed the relevant provisions of policy statements and plans as required by section 201(2)(b) (incorporating the matters in section 207(c) of the Act).

Given the wide scope of your application, it is critical that you address all of these matters.

Accordingly, I request you provide further information on the following matters:

- a. RMA s201(a) - the water bodies concerned;
- b. RMA s200 - the protective provisions sought;
- c. RMA s201(c) – the effect the provisions sought would have on the water bodies; and
- d. RMA s199(2)(b)(iii), s199(2)(b)(v), and s199(2)(c) – the outstanding values to be sustained; and
- e. RMA s201(b) and by incorporation s207(b) and s207(c) – needs of primary and secondary industry, and the community, and relevant provisions of existing plans and policies.

If you need any further advice on the application process, please contact Thomas O'Flaherty or Jo Burton at the Ministry for the Environment – 04 439 7400.

Yours sincerely

Hon Nick Smith
Minister for the Environment

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Document 6

From: [Neil Deans](#)
To: [Ministerials](#); [Martin Workman](#); [Jane Frances](#); [Jo Burton](#)
Subject: West Coast Rivers WCO application
Date: Wednesday, 31 May 2017 8:52:16 AM

Good morning all

The Minister would like to have a discussion on the West Coast Rivers WCO application at Status on Monday. He has read the briefing but not signed it out. I suggest the lead person gives me a call on it.

Cheers

Neil Deans

Private Secretary (Environment)
Office of Hon Dr Nick Smith
Parliament Buildings Wellington New Zealand
Phone 04 817 9935 Mobile s 9(2)(a)

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Document 7

From: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>
Sent: Wednesday, 7 June 2017 2:01 PM
To: Emily Hockly; Ashley Procter
Cc: Stephen Fragaszy
Subject: RE: Minister Smith feedback from Status

Hey guys,

Here is a link to the draft letter. The Minister wanted this to be as legally robust as possible. I have deliberately kept it short have tried to go with the tone that the Minister wanted.

West Coast WCO Rejection letter.docx

<http://tepuna.mfe.govt.nz/OTCS/llisapi.dll?func=ll&objaction=overview&objid=8859389>

Please feel free to comment on tone in your review.

Also just a thought, and feel free to shoot this down. But would it be possible to refund the application fee to the West Coast grandmothers? Or would this be unlawful (and possibly defeat the purpose of the application fee – to prevent vexatious or frivolous applications)? I know that it was a big deal for them to come up with the application fee.

Cheers,
Thomas

From: Thomas O'Flaherty
Sent: Wednesday, 7 June 2017 9:20 a.m.
To: Emily Hockly; Ashley Procter
Cc: Stephen Fragaszy
Subject: RE: Minister Smith feedback from Status

Hey guys, please see the below. Out of Scope

The Minister also would like us to draft a letter rejecting the West Coast rivers application. We will look to have a draft ready for legal review today.

WCOs

- Minister Smith has asked for a letter to be drafted to turn down the 38 river WCO application. He believes there are grounds for turning it down given the scale of the application and the lack of information, how 38 rivers can all be considered outstanding. He wants the letter to acknowledge what the applicants were trying to achieve in bringing their concerns to the Government's attention and that these concerns have been heard. The letter is to be as legally robust as possible.

- Out of Scope


Cheers,

Thomas

From: Martin Workman
Sent: Wednesday, 7 June 2017 8:13 a.m.
To: Team - Water - Environmental Limits
Cc: Sheree De Malmanche; Jane Frances; Kate Hellstrom
Subject: Minister Smith feedback from Status


Hi


Out of Scope




Specific feedback from last night:

Out of Scope


- Out of Scope
- 

- Out of Scope
 - Out of Scope
- 

Out of Scope

- Out of Scope
 - Out of Scope
 - Out of Scope
- 

WCOs

- Minister Smith has asked for a letter to be drafted to turn down the 38 river WCO application. He believes there are grounds for turning it down given the scale of the application and the lack of information, how 38 rivers can all be considered outstanding. He wants the letter to acknowledge what the applicants were trying to achieve in bringing their concerns to the Government's attention and that these concerns have been heard. The letter is to be as legally robust as possible.
 - Out of Scope
- 

Let me know if you have any questions and we can discuss what needs to happen to meet our deadlines.

Martin Workman – Director Water

Ministry for the Environment – Manatū Mō Te Taiao and Ministry for Primary Industries

Mobile: 029 894 0577 Email: martin.workman@mfe.govt.nz Website: www.mfe.govt.nz

No.3 The Terrace, PO Box 10362, Wellington 6143

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Jane Ruka
Waitaha Executive Grandmother's Council
s 9(2)(a)

CC: Aimee Paterson
Morrison Kent House
PO Box 10035
Wellington 6143

Dear Jane

Rejection of Water Conservation Order application

Thank you for submitting an application for a water conservation order on behalf of the Waitaha Executive Grandmother's Council for 38 rivers on the West Coast, and for the payment of the application fee which was received at the Ministry for the Environment on 29 March 2017.

I am enormously appreciative of the intent of the application and I acknowledge your passion for the conservation of the western watershed of the Southern Alps. I have heard your concerns and understand that we must always strive to manage fresh water in New Zealand better and ensure that we look after and nurture the outstanding values of our fresh water.

I have read your application and, while I support your drive to protect fresh water, I do not consider that it merits consideration by a special tribunal. For this reason I have decided to reject it.

I came to my decision on the basis of the application's deficiency in the following matters (all prescribed by Part 9 of the Resource Management Act 1991):

- Providing a sufficient technical description of the water bodies concerned;
- Describing, with sufficient detail, the protective provisions sought;
- Describing the effect the provisions sought would have on the water bodies;
- Providing complete descriptions of the outstanding values to be sustained; and
- Considering the needs of primary and secondary industry, and the community, and any relevant provisions of existing plans and policies.

Again, I thank you for making the effort to put together and submit a water conservation order application. I have heard your concerns about the special status that the waters of the West Coast have to you and your organisation. If you have any further enquiries about your application, please contact Thomas O'Flaherty or Jo Burton at the Ministry for the Environment – 04 439 7400.

Yours sincerely

Hon Dr Nick Smith
Minister for the Environment


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Document 8


From: [Thomas O'Flaherty](#)
To: [Jo Burton](#)
Subject: Item for Status
Date: Wednesday, 14 June 2017 10:38:16 AM
Attachments: [image001.png](#)

Water Conservation Order Update

Out of Scope



Out of Scope



38 Rivers on the West Coast

On 13 June 2017, we supplied your office with an amended letter rejecting the application.

Thomas O'Flaherty – Senior Policy Analyst, Environmental Limits

Ministry for the Environment – Manatu Mo Te Taiao

Mobile: 021 266 6303 Email: Thomas.OFlaherty@mfe.govt.nz Website: www.mfe.govt.nz

No.3 The Terrace, PO Box 10362, Wellington 6143



Ministry for the
Environment
Manatū Mō Te Taiao



Document 9

From: [Thomas O'Flaherty](#)
To: [Neil Deans](#); [Jo Burton](#); [Ministerials](#)
Subject: RE: West Coast Rivers WCO application
Date: Tuesday, 20 June 2017 9:24:38 AM
Attachments: [West Coast WCO Rejection letter.docx](#)

Hi Neil,

Please find the letter attached.

Cheers,
Thomas

From: Neil Deans [mailto:Neil.Deans@parliament.govt.nz]
Sent: Tuesday, 20 June 2017 8:15 a.m.
To: Thomas O'Flaherty; Jo Burton; Ministerials
Subject: West Coast Rivers WCO application

Good morning

Could you please send me an electronic copy of the draft letter from the Minister to the applicants for the West Coast WCO as he wishes to make some changes before sending it.

Thanks

Neil Deans
Private Secretary (Environment)
Office of Hon Dr Nick Smith
Parliament Buildings Wellington New Zealand
Phone 04 817 9935 Mobile s 9(2)(a)

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Document 10

From: [Thomas O'Flaherty](#)
To: [Genevieve Davidson](#)
Cc: [Info at MfE](#)
Subject: RE: Water Conservation Order
Date: Tuesday, 4 June 2019 4:28:59 PM
Attachments: [image011.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

Kia ora Genevieve,

Thanks for your inquiry relating to the water conservation order application on behalf of the Waitaha Executive Grandmother's Council for 38 rivers on the West Coast.

This application was originally received at the Ministry for the Environment on 29 March 2017.

The former Minister for the Environment, Hon Nick Smith rejected the application in mid-2017 by letter to the original applicants.

I am happy to answer any questions relating to the above.

Kind regards,
Thomas

Thomas O'Flaherty – Senior Policy Analyst, Freshwater Policy
Ministry for the Environment – Manatu Mo Te Taiao
Mobile: 021 266 6303 Email: thomas.oflaherty@mfe.govt.nz Website: www.mfe.govt.nz
23 Kate Sheppard Place, Thorndon, Wellington 6143



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From: Genevieve Davidson <genevieve.davidson@morrisonkent.com>
Sent: Wednesday, 1 May 2019 4:49 PM
To: Info at MfE <infoatmfe@mfe.govt.nz>
Subject: Re: Water Conservation Order

Kia ora,

I am emailing in regards to an application for a water conservation order which was made in

2017 for 38 rivers located on the west coast of the south island. The application was made by an entity who we represent in the Waitangi Tribunal called the Waitaha Executive Grandmother's Council (Wai 1940) who represent the Waitaha iwi. I have been asked to find out whether this application was considered by the Department of Conservation and what the outcome of the application was. Our client is unsure what progress was made with their application and Dr Gilling of our team has no record of the decision by the Ministry for Environment on this application. I have **attached** the application to this email for ease of reference.

Please feel free to call me on my below contact details.

Nga mihi
Genevieve Davidson
> SOLICITOR

ddi s 9(2)(a)
ph (04) 472 0020 / fax [+64 4 472 0517](tel:+6444720517)

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Document 11

From: [Karwin Perez](#)
To: [Natalie Pike](#)
Cc: [Thomas O'Flaherty](#)
Subject: West Coast Rivers Application - Option
Date: Wednesday, 19 February 2020 2:21:27 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Hi Natalie,

Since the meeting today fell through, we decided to send you an email to get your input on the option for addressing the West Coast WCO.

We spoke with Neil Deans last week and this is the option that arose from that conversation. Along with this, we've included a couple points for discussion.

The option

To address the issue, MfE should:

- 1) Contact the Applicants expressing our apologies and, explaining that the matter was not processed due to a change of government. Noting the passage of time, and that some matters have changed;
- 2) Enquire whether they wish to proceed with the application;
- 3) Offer a return fee; or, if they choose to proceed with reapplication, waive the fee for the reapplication;
- 4) Provide them with adequate information about what information they need to provide in order to achieve a successful application;
- 5) Brief the minister if the applicants decide to resubmit their application

Discussion points:

-

- 1) **We should discuss whether a letter or a phone call with a lawyer present is preferable option for contacting the Applicants.**
- 2) **We have previously told them that the former Minister was of a mind to decline the application, so again, we should consider whether we tell them of the likelihood of the success of the application were it to be resubmitted.**
- 3) **We need to check whether we are able to refund the application fee. There won't be anything in the Act. Might be a question for legal.**

Please advise whether we should discuss this further in person, or whether this should be enough to go on.

With kind regards,

Karwin Go Perez – Analyst, Freshwater Policy
Ministry for the Environment – Manatu Mo Te Taiao
Email: Karwin.Perez@mfe.govt.nz Website: www.mfe.govt.nz
23 Kate Sheppard place, PO Box 10362, Wellington 6143



Ministry for the
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Document 12

From: [Ministerials](#)
To: bryan.gilling@morrisonkent.com
Cc: [Info at MfE](#)
Subject: 20-M-00618 FW: Water Conservation Consent - Waitaha
Date: Thursday, 30 April 2020 3:38:55 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[20-M-00618 Letter - To Waitaha Executive Grandmother's Council re WCO application for 38 rivers on the West Coast.doc](#)
[image001.jpg](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Kia ora Dr Gilling,

We attempted to send this response to Genevieve but as she is no longer with Morrison Kent you were her out of office contact. Please find the Ministry's response attached.

Nga mihi,
Charlotte

Executive Relations Team

Ministry for the Environment – Manatu Mo Te Taiao

Website: www.mfe.govt.nz

23 Kate Sheppard Place, PO Box 10362, Wellington 6143

cid:image006.jpg@01D2BAAB.D5B55350



From: Ministerials
Sent: Thursday, 30 April 2020 3:09 PM
To: genevieve.davidson@morrisonkent.com
Cc: info@mfe.govt.nz
Subject: RE: 20-M-00618 FW: Water Conservation Consent - Waitaha

Kia ora Genevieve,

Thank you for your email; please find the Ministry's response attached (with apologies for the delay).

Nga mihi,

Executive Relations Team

Ministry for the Environment – Manatu Mo Te Taiao

Website: www.mfe.govt.nz

23 Kate Sheppard Place, PO Box 10362, Wellington 6143

cid:image006.jpg@01D2BAAB.D5B55350



From: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

Sent: Monday, 6 January 2020 10:58 AM

To: Jo Burton <Jo.Burton@mfe.govt.nz>; Bridget Fraser <Bridget.Fraser@mfe.govt.nz>

Cc: Info at MfE <infoatmfe@mfe.govt.nz>; Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>

Subject: Water Conservation Consent - Waitaha

Kia ora,

My name is Genevieve Davidson, I am a solicitor acting on behalf of Ms Jane Ruka and the Waitaha Executive Grandmother's Council.

I refer to the below correspondence chain which dates back to earlier in 2019.

I am seeking the following information from the Ministry for Environment:

The Waitaha Executive Grandmother's Council (Wai 1940 claimants in the Waitangi Tribunal) applied for a water conservation order in relation to 38 rivers on the West Coast.

Earlier in 2019 our offices was notified that the application had been declined, we passed this information onto the Waitaha Executive Grandmother's Council (the original applicants).

We have been notified by the original applicants being that they did not receive a letter of rejection regarding their application and would like a copy of this letter and any reasons given for why the application was declined.

Can you please confirm whether the original applicants were notified by letter of the minister's

rejection and provide a copy of the rejection letter as soon as possible.

Nga mihi

Genevieve Davidson

> SOLICITOR

ddi s 9(2)(a)

ph (04) 472 0020 / fax +64 4 472 0517



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From: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>

Sent: Monday, 6 January 2020 10:43 AM

To: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

Subject: Automatic reply: Water Conservation Consent - Waitaha

Thank you for your message.

I am currently out of the office. I will return Thursday, 9 January.

If your request is urgent, please contact Jo Burton or Bridget Fraser.

Kind regards,
Thomas.

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From: Genevieve Davidson
Sent: Monday, 6 January 2020 10:42 AM
To: 'Thomas O'Flaherty' <Thomas.OFlaherty@mfe.govt.nz>
Cc: 'Info at MfE' <infoatmfe@mfe.govt.nz>
Subject: Water Conservation Consent - Waitaha

Kia ora,

I refer to the **below** email correspondence chain.

I am trying to get some traction on this mahi, can I please be sent an update on the progress of my enquiry.

Nga mihi

From: Genevieve Davidson
Sent: Tuesday, 17 December 2019 5:03 PM
To: Info at MfE <infoatmfe@mfe.govt.nz>
Subject: Water Conservation Consent - Waitaha

Kia ora,

I refer to the **below** email correspondence chain.

I am trying to get some traction on this mahi, can I please be sent an update on the progress of my enquiry.

Nga mihi

From: Genevieve Davidson
Sent: Thursday, 12 December 2019 5:14 PM
To: 'Thomas O'Flaherty' <Thomas.OFlaherty@mfe.govt.nz>
Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>
Subject: RE: Water Conservation Consent - Waitaha

Kia ora Thomas,

I hope you are well.

We have not had a response to our below queries, can you please provide an update as soon as possible on this.

Nga mihi

From: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>
Sent: Tuesday, 17 September 2019 4:35 PM
To: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

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Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>

Subject: RE: Water Conservation Consent - Waitaha

Yes, we will look into it.

I will touch base on Tuesday to let you know where it is at.

From: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

Sent: Tuesday, 17 September 2019 4:05 PM

To: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>

Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>

Subject: RE: Water Conservation Consent - Waitaha

Kia ora Thomas,

Thank you for your email.

Can we take this to mean that you will investigate whether the draft letter was finalised and sent from the Minister's office to the original applicants?

Can we please have an update by Tuesday next week at the latest of the situation.

Nga mihi

Genevieve Davidson

> SOLICITOR

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ph (04) 472 0020 / fax [+64 4 472 0517](tel:+6444720517)



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From: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>

Sent: Tuesday, 17 September 2019 3:51 PM

To: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>

Subject: RE: Water Conservation Consent - Waitaha

Hi Genevieve,

The Ministry drafted the original letter. This was provided to the Minister's office. We have a copy of this letter.

The application is made to the Minister for the Environment. The response would come from his office and the letter was drafted as such.

I am looking further into this for you.

Regards,
Thomas

From: Genevieve Davidson <genevieve.davidson@morrisonkent.com>

Sent: Tuesday, 17 September 2019 12:09 PM

To: Thomas O'Flaherty <Thomas.OFlaherty@mfe.govt.nz>

Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>

Subject: RE: Water Conservation Consent - Waitaha

MFE CYBER SECURITY WARNING

This email originated from outside our organisation. Please take extra care when clicking on any links or opening any attachments.

Kia ora Thomas,

Thank you for taking my call today at 1.47am, which was to follow up on my email sent to you on the 9th of September 2019.

My understanding from our conversation is the following:

- a. Hon Nick Smith indicated his rejection of the 38 river conservation order in a meeting with MFE official and his own offices officials;
- b. A letter to the original applicants to decline the application was drafted;
- c. The draft letter was circulated to MFE;
- d. MFE does not have a record of whether that draft letter was sent by MFE to the original applicants and MFE was under the impression that Hon Nick Smith's office would send this draft letter anyway;
- e. Hon Nick Smith's office does not exist anymore therefore access to its records is not possible;
- f. You have asked a previous member of Hon Nick Smith's office whether the draft letter was sent to the original applicants but they did not know;
- g. You will follow up with another previous member of that office this week to see if they know whether a rejection letter was sent by Hon Nick Smith's office to the original applicants; and,
- h. You will either call or email me back with a further update later this week or next week.

Please confirm if the above is also your understanding of our conversation this morning.

Nga mihi

Genevieve Davidson

> SOLICITOR

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ph (04) 472 0020 / fax [+64 4 472 0517](tel:+6444720517)



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From: Genevieve Davidson

Sent: Monday, 9 September 2019 5:31 PM

To: 'Thomas O'Flaherty' <Thomas.OFlaherty@mfe.govt.nz>

Cc: Dr Bryan Gilling <Bryan.Gilling@morrisonkent.com>

Subject: Water Conservation Consent - Waitaha

Kia ora Thomas,

My name is Genevieve Davidson, we corresponded earlier this year regarding the water conservation order application on behalf of the Waitaha Executive Grandmother's Council for 38 rivers on the West Coast.

We have been notified by the original applicants being the Waitaha Executive Grandmother's Council that they did not receive a letter of rejection regarding their application.

Can you please confirm that the original applicants were notified by letter of the minister's rejection and if possible provide a copy of the rejection letter and the address/or email address of where this letter was sent to.

Nga mihi

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have received this e-mail in error, please notify us immediately by reply e-mail and delete the original. Thank you.

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Document 12.1

20-M-00618

Jane Ruka
Waitaha Executive Grandmother's Council
s 9(2)(a)

CC: Morrison Kent
Morrison Kent House
PO Box 10035
Wellington 6143

Dear Jane

Status of your Water Conservation Order application for 38 rivers on the West Coast

I am writing to follow up on your query about the status of your Water Conservation Order (WCO) application under section 201 of the Resource Management Act 1991 (RMA) for 38 rivers on the West Coast.

I regret to inform you that your application was not processed to the point to which it was either accepted or rejected, or more information was requested. This was due to complications surrounding the, then upcoming, change of Government. The current Minister for the Environment has not reviewed your application.

I apologise for the failure to complete the processing of your application. We, at the Ministry, understand how much you cherish the waters of the West Coast. Like you, we strive to better protect our freshwater and nurture its outstanding values.

You are welcome to instruct us to proceed with your current application. If you do so, we are likely to request further information from you under section 201(3) of the RMA.

In respect of the application itself, if you wish to proceed with it, we are likely to need more detailed information from you. This information relates to requirements under section 201(2) of the RMA, including:

- Providing a sufficient technical description of the water bodies concerned;

- Describing, with sufficient detail, the protective provisions sought;
- Describing the effect the provisions sought would have on the water bodies;
- Providing complete descriptions of the outstanding values of the water bodies to be sustained; and
- Considering the needs of primary and secondary industry and the community, and any relevant provisions of existing plans and policies.

We can offer guidance on the information you will need to ensure that you cover off the relevant matters.

Given the time that has passed, you may also choose to instruct us to no longer proceed with the application, in which case we would provide you a full refund of the application fee.

Thank you for your commitment to the waters of the West Coast. If you have any follow-up questions, please contact Karwin Perez at the Ministry for the Environment, email karwin.perez@mfe.govt.nz or phone 04 439 7400.

Yours sincerely

Electronically signed by Annabelle Ellis, 29/04/2020

Annabelle Ellis
Acting Director, Water