

4. Statutory framework for integrated catchment management

4.1 TASMAN DISTRICT COUNCIL RESPONSIBILITIES

Tasman District Council serves 45,000 residents, and alongside Nelson City Council, acts as a unitary council with both regional and district council responsibilities under the Resource Management Act 1991 (RMA). This combination of local government roles integrates all resource management within a single authority, and encourages strong links between service delivery and environmental management. Thus the Tasman District Council is a 'one stop shop' for local government in its region.

Tasman District Council is responsible for sustainable management of land, water and other natural and physical resources of the Motueka catchment, and its coastal resources up to 19km offshore, under the RMA. The Act has the objective of promoting the sustainable management of natural and physical resources. It has particular emphasis on protecting the

life-supporting capacity of resources, safeguarding the foreseeable needs of future generations and avoiding, remedying or mitigating effects on the environment. Rather than controlling activities such as land use, the RMA emphasises avoiding or limiting the environmental effects of those activities.

Tasman District Council has a range of functions relevant to catchment management, including a mandate for integrated resource management, control of the effects of land use, control of land subdivision, water management, contaminant management, coastal management (shared with the Department of Conservation), river and lake management, and natural hazards and hazardous substances management. Tasman District Council undertakes these functions through:

- preparing and implementing a Regional Policy Statement and regional and district plans, the latter two now being amalgamated under the umbrella of the Tasman Resource Management Plan (TRMP);
- granting or declining resource consents,

comprising land use consents, water permits, discharge permits and coastal permits;

- investigating and monitoring resources, and reporting on the state of the environment (e.g. Tasman District Council 2000e);
- monitoring and enforcing compliance of resource uses with their resource consents or relevant permitted activity rules in planning documents;
- advocating good environmental practice, and in some cases providing funding or services for supporting this; for example, funding for riparian fencing, soil conservation or wetland protection.

Tasman District Council's Resource Management Plan must be consistent with any national regulations (such as fisheries regulations), national policy statements (such as the New Zealand Coastal Policy Statement), water conservation orders (such as the draft National Water Conservation (Motueka River) Order 1991), and any relevant iwi planning document. Tasman District Council plans must also have regard to any management plans and strategies prepared under any other Act (e.g., Conservation Management Strategy for Nelson/Marlborough, and the management plan for Kahurangi National Park prepared by Department of Conservation).

Tasman District Council has prepared the Tasman Regional Policy Statement (Tasman District Council 2001b), which provides a general overview of significant resource management issues, resource management objectives, and policies and methods to achieve integrated management of resources. Resource management issues are being dealt with in detail through preparation of the Tasman Resource Management Plan, which includes both regulatory and non-regulatory methods for managing land, water and coastal resources. The Tasman Resource Management Plan (Tasman District Council 1996) is divided into six parts, which are at various stages of development (see Table 7). Plans such as the TRMP outline policies and specify how the policies will be implemented. This includes the setting of rules, which may require people to carry out their activities in accordance with these rules or to apply for a resource consent.

Other methods of implementing plan policies are monitoring and investigations, financial incentives, education and advocacy.

Rules in the plan control activities such as:

- subdivision of land;
- effects of land use;
- land disturbance;
- discharges to water, land and air;
- water takes from rivers and groundwater;
- damming and diversion of rivers;
- diversion and discharge of water from wetlands and land.

Management of the coastal marine area is shared between Tasman District Council and Department of Conservation. Under the RMA, responsibility for the final approval of provisions of Regional Coastal Plans that relate to the coastal marine area rests with the Minister of Conservation. In the case of Tasman District Council, the Regional Coastal Plan simply comprises Part III of the TRMP and that section of Part VI (Discharges) relating to the Coastal Marine Area. Tasman District Council is responsible for assessment and approval of coastal resource consents, with the exception of activities that exceed specific thresholds that are provided for as restricted coastal activities. The Minister of Conservation makes the final decisions on these, although the hearing process remains with the Tasman District Council.

4.2 THE MOTUEKA RIVER WATER CONSERVATION ORDER

Water conservation orders are national policy instruments gazetted under the Resource Management Act to preserve or protect water bodies with outstanding – normally nationally important – habitats, fisheries, wild and scenic character, scientific or ecological values. In 1990 the Nelson Acclimatisation Society (now Nelson–Marlborough Fish & Game Council) and Council of South Island Acclimatisation Societies (now New Zealand Fish & Game

PART OF TRMP	CONTENT
Part I - Introduction	Purpose, scope, structure and effect of Tasman Resource Management Plan, including definitions of terms.
Part II - Land	Issues, objectives, policies and rules relating to: site amenity; urban and rural environments; margins of rivers, lakes, wetlands and the coast; landscape; significant natural values and cultural heritage; land transport; land disturbance; natural hazards, reserves and open space. <i>Part II was nearing operative status as at 2002. Land disturbance policy and rules replace those in the Regional Plan (Land) made operative 30 June 1998.</i>
Part III - Coastal Marine Area	Issues, objectives, policies and rules relating to: boats; structures and aquaculture management; natural hazards, hazardous substances and noise in the Coastal Marine Area. <i>Part III was nearing operative status as at 2002 but aquaculture management issues were before the Environment Court.</i>
Part IV - Rivers and Lakes	Issues, objectives, policies and rules relating to: activities on the water surface and in river and lake beds, including channel maintenance, gravel extraction, and dams. <i>Part IV had not been drafted or notified as at 2002, so rules in the TDC Transitional Regional Plan 1991 continue to apply.</i>
Part V - Water	Issues, objectives, policies and rules relating to: taking, using, damming and diverting water. <i>Part V had been notified but awaited decisions on submissions as at 2002. Of relevance to the Motueka catchment, Part V when operative will supercede the Motueka and Riwaka Plains Water Management Plan (a regional plan, operative 16 January 1995, the Moutere Water Management Plan (operative 31 October 2001)) and the informal Motueka and Riwaka Catchments Water Management Plan 1989</i>
Part VI - Discharges	Issues, objectives, policies and rules relating to: discharges to land, fresh water, air and the coastal marine area. <i>Part VI was nearing operative status as at 2002</i>

Table 7: Tasman Resource Management Plan outline.

Council) applied for a National Water Conservation Order for the whole of the Motueka and Riwaka rivers to protect the brown trout fisheries in these rivers. The Minister for the Environment decided that only the Motueka River merited an inquiry, while the Riwaka should be managed under the Tasman District Council's plans. Public submissions were heard by the Minister for the Environment's

Special Tribunal in Motueka in 1991 and a draft Order was released later that year. However, a decision on appeals on the draft Order was postponed until the decision on a similar application for the Buller River had been resolved.

A callover on the Motueka River Water Conservation Order was held in 1997 and the application was reconsidered in the light of the

decision on, and provisions of, the Buller River Water Conservation Order. The form of the Order on the Motueka was modified to consider only those specific parts of the Motueka River considered nationally outstanding, to identify parts of the river (rather than the whole catchment) to which the Order would apply, what features of the river were being protected, and what specific measures were needed to protect the identified reaches of the river. The parties to the appeal negotiated a compromise during 1997-2002. The main parties involved were Fish & Game, Tasman District Council, Department of Conservation, Weyerhaeuser New Zealand and a group of upper Motueka irrigation interests (the Land Owners Water Action Group) supported by Federated Farmers. The most contentious issue to resolve was the minimum flow needs for protecting the brown trout fishery, when compared with the current and future water needs for irrigation throughout the Motueka catchment. The parties agreed to a maximum reduction in Motueka River flow of 12% of the flow as measured at Woodstock and related limits for the Wangapeka, Motupiko, upper Motueka and Tadmor tributaries. Affidavit evidence supporting a Water Conservation Order (e.g. Fenemor, 2002b, Hayes 2002, Deans 2002) was presented to the Environment Court in July 2002 and resulted in a recommendation from the Court (Environment Court Decision W7/2003) that the Minister for the Environment gazette the National Water Conservation (Motueka River) Order.

In summary what is recommended is an Order that identifies:

- the outstanding characteristics and features that the Order would protect (the wild and scenic character of the Wangapeka above the Dart confluence, several streams providing blue duck habitat, the karst systems of Mt Arthur and Mt Owen, the brown trout fishery of the main stem between the Wangapeka and Shaggy confluences, and the Wangapeka River and parts of the river that may contribute flows or spawning waters to support the brown trout fishery);
- which waters would be preserved in their natural state (all the Wangapeka above the Dart confluence, all those nominated rivers and streams on conservation lands managed by Department of Conservation);
- which waters would be protected (by setting of water flow and quality conditions on regional rules and consents, and prohibition of dams on the river and its tributaries);
- which waters would be protected due to their contribution to outstanding features, particularly various tributaries where brown trout spawn.

Future decisions by Tasman District Council on any of the waters covered by the Order must comply with its provisions.

4.3 DEPARTMENT OF CONSERVATION RESPONSIBILITIES

The Department of Conservation is directly responsible for managing conservation lands within the Motueka Catchment, including Kahurangi National Park and Mt Richmond Forest Park, and also has functions that apply to land and water resources not directly managed by the Department. Management of conservation lands is controlled by a series of Acts including the National Parks Act 1980, the Conservation Act 1987 (and its amendment in 1996), a series of Ngai Tahu Acts, the Resource Management Act 1991, and the Crown Minerals Act 1991. In addition to its land management role, the Department has responsibility to advocate for the protection of wildlife under the Wildlife Act 1953, freshwater fisheries under the Conservation Act and Freshwater Fisheries Regulations 1983, and to advocate for conservation generally through the statutory planning process. Department of Conservation also administers authorisations for the introduction of aquatic species.

The National Parks Act 1980 requires national parks to be preserved in their natural state, and for their value as soil, water and forest conservation areas to be maintained. The Act requires the preparation of a management plan for Kahurangi National Park that sets objectives for biodiversity and landscape management, preservation of historic resources and of the park (Dyson 2001).

Under the Conservation Act, Department of Conservation has the following functions relevant to catchment management that apply to both conservation and other land:

- management for conservation purposes of all land, and all other natural and historic resources held as conservation lands (and other land where the owner agrees that it should be managed by Department of Conservation);
- preservation of native freshwater fisheries (including the whitebait fishery), and protection of recreational freshwater fisheries and freshwater fish habitats (especially spawning grounds and migratory access);
- advocacy for the conservation of natural and historic resources generally.

For conservation lands in the Motueka Catchment, these functions are implemented through the Conservation Management Strategy for the Nelson–Marlborough Conservancy (Department of Conservation 1996), which has amongst its objectives:

- to attain better representation of the diversity of lowland ecosystems and better quality in those already protected (no priority areas are identified in the Motueka);
- the promotion of sound management of coastal and marine ecosystems, including development of a network of protected coastal and marine areas (the Motueka delta – Kumeras spit is identified as a priority area);

- to protect and enhance the natural qualities of freshwater ecosystems and to maintain and improve fish and wildlife habitat and recreational fisheries (protection of the Motueka River is identified as a priority).

Specific objectives, management strategies, and threats are identified for upland ecosystems (Mt Arthur, Mt Owen, and Richmond Range), coastal and marine ecosystems, freshwater ecosystems, and karst and cave ecosystems.

The Department of Conservation advocates for the protection of natural, historic, and recreational values in areas where it does not manage the land and resources. The RMA is the main vehicle for this statutory advocacy, which is undertaken through the statutory planning procedures of local authorities. Section 6 of the Conservation Act provides for Department of Conservation to advocate for the protection of natural and heritage values. This advocacy role is undertaken primarily under the RMA, but also under other legislation, including fisheries and forest management legislation. For its conservation advocacy under the RMA, Department of Conservation has a particular focus on management of freshwater resources (in particular native freshwater fisheries and protecting recreational freshwater fisheries and freshwater fish habitats) and the coastal environment including (but not restricted to) the coastal marine area. The Minister of Conservation supported the application for the Water Conservation Order on the Motueka River.

The Minister of Conservation has an oversight role under the RMA for the management of natural and physical resources in the coastal environment. This role includes responsibility for approving that part of the regional coastal plan that relates to the coastal marine area; being the final consent authority for activities for coastal permits exceeding specified thresholds that are defined as being restricted coastal activities; and in monitoring the implementation of the New Zealand Coastal Policy Statement. Department of Conservation provides advice and administrative support to the Minister

of Conservation in fulfilling these statutory responsibilities.

4.4 Tangata whenua interests

Tangata whenua are recognised by all Crown agencies as having special status within the Motueka through their long-standing connections with the natural resources in the area, and through the Treaty of Waitangi. A number of agencies, including Tasman District Council and Department of Conservation, have a responsibility to work with tangata whenua on all matters concerning the environment and heritage. Under the RMA the most important sections for tangata whenua are:

- sections 6e, *“recognise and provide for ... the relationship of Māori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga”*;
- section 7, *“have particular regard to kaitiakitanga (stewardship or guardianship)”*;
- section 8, *“take into the account the principles of the Treaty of Waitangi”*. This requires all those exercising powers and functions under the RMA to recognise and provide for tangata whenua interests and values, and to achieve good practice in the relationship with tangata whenua;
- section 33 provides a transfer of power from any local authority to tangata whenua for the purposes of achieving sustainable use of natural and physical resources;
- section 62 requires local authorities and others to recognise iwi management plans.

In addition, the Historic Places Act (1993) provides for the protection of registered archaeological and other heritage sites, as do most district plans under the RMA, and the Conservation Act (1987) gives effect under section 4 to “the principles of the Treaty of Waitangi”. Various other types of national legislation and international conventions recognise and protect indigenous rights, and provide status to tangata whenua for collective decision-making, on a range of issues. Many local iwi and hapū have included aspirations, issues, policies, and values in

iwi management plans and other planning documents. Tangata whenua are active in environmental monitoring and processing resource consents in the Motueka Catchment. They have been an integral part of the regional and district consultation–submission process, and have participated in lengthy debate and discussion on issues such as waste management, site contamination, the Regional Policy Statement, and the Tasman Resource Management Plan.