23 February 2025

Submission to Finance and Expenditure Committee

Local Government (Water Services) Bill

https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/$file/LWDW-Bill-3-factsheet-Wastewater-and-stormwater-environmental-performance-standards.pdf

Email submission to: fe@parliament.govt.nz; questions to: waterservices@dia.govt.nz.

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on behalf of

Corina Jordan CEO

New Zealand Fish and Game Council

About Fish and Game

1.1 Fish and Game is the statutory manager for sports fish and game, with functions conveyed under the Conservation Act 1987. The organisation is an affiliation of 12 regional Councils and one national Council. Together, these organisations represent approx. 130,000 anglers and hunters.

1.2 The sports fish and game resource managed by Fish and Game are defined and protected under the Conservation Act and the Wildlife Act 1953. The species within include introduced sports fish and a mix of native and introduced waterfowl and upland game[1].

1.3 Our vision, purpose and values are illustrated below:

OUR VISION	OUR PURPOSE	OUR VALUES
Our vision is a New Zealand where freshwater habitats and species flourish, where hunting and fishing traditions thrive and all Kiwis enjoy access to sustainable wild fish and game resources.	Fish & Game New Zealand maintains and enhances sports fish and game birds, and their habitats, ensuring access for current and future generations of New Zealanders.	TRUST INCLUSION CONNECTION SERVICE

1.4 Fish and Game is entirely funded by licence holder fees and private contributions, meaning the delegated function of managing the species for the public good is funded entirely by the users. It is a democratic '*user pays, user say*'s organisation. Using this system, Fish and Game funds public good research to ensure fisheries and game populations are managed sustainably; undertakes compliance with the licencing system; and contributes to public planning

[1] Most New Zealanders refer to these species as 'game birds', distinguishing them from other types of large game, such as deer or pigs. The Wildlife Act 1953 defines these birds simply as 'game' and this phrase is used in the context of this submission.

processes to ensure that hunters and anglers values are recognised and provided for.

1.5 In relation to planning, Fish & Game have the statutory function to advocate for hunters and anglers values and ensure that the habitats of gamebirds and sports fish are provided for. At any one time we may have around 150,000 licence holders, and a larger number (approximately 300,000) that are transient licence holders. The habitat we specifically advocate for includes lakes and rivers that contain trout and salmon (and other sports fish) and wetlands where game bird hunting occurs.

Fish and Game in Resource Management

2.1 Fish and Game works to provide for the ongoing enjoyment of hunting and freshwater fishing assets, the maintenance (or enhancement) of public access to rivers, lakes, and wetlands for hunting and fishing, and the protection of the habitat of trout and salmon.

2.2 Hunting and angling require legal and physical access both to habitats and the resource itself. Maintenance and enhancement of access is critically important to the pursuits of our licence holders. The maintenance and enhancement of public access to and along lakes and rivers is listed in the RMA 1991 as a matter of national importance.

2.3 We see the opportunity for proposals to be required to provide improved access both to their sites and other nearby areas that involve hunting or fishing values as a form of mitigation for any loss of values on site. We seek that Fish and Game are consulted as an expert advisor where gamebird and or sports fishery values could be impacted. We can work with government officials to ensure outcomes that achieve both economic imperatives, along with recognising and providing for hunting and fishing values.

2.4 We specifically seek the protection of:

i. habitat of trout and salmon.
ii. maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers where sports fishing and game bird values exist.
iii. preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers and their margins where sports fishing and game bird values exist.
iv. Recognition and provision for freshwater angling/game bird hunting and amenity values.

2.5 Stormwater and Waste Water Treatment Plants and our regions

[provide examples of problems around the country from water quality etc]

Local Government (Water Servies) Bill

Introduction – *this legislation sets out ensuring settings for the new water services system. It is the third piece of legislation in the Government's three-stage process for implementing Local Water Done Well. Work is underway to develop national wastewater environmental performance standards under the Water Services Act 2021, which will guide councils for the new standards for their Water Services Delivery Plans.*

Taumata Arowai (the Authority) has existing powers to regulate the performance of wastewater and stormwater networks and infrastructure under the Water Services Act 2021. The Authority is currently developing the national wastewater environmental performance standards[2].

3.1 This submission focuses on the parts of the Bill that relate to water quality that can impact on the species that we are mandated to manage. Section 58JA which provides for the wastewater and stormwater environmental performance standard to prevail over other documents such as a National Environmental Standard, National Policy Statement, Coastal Policy Statement, Regional Plan or Policy Statement or District plan is of particular concern if it involves lowering the existing standards for these discharges.

3.2 While we support standardisation of consent conditions, we also note that existing water bodies that are not degraded should not be allocated

[2] Local Water Done Well factsheet: Wastewater and stormwater environmental performance standards, December 2024.

environmental performance standards that would allow for degradation of that waterbody.

3.3 Fish and Game do not object to new standards that are similar or easier to measure than existing Target Attribute States in the NES-FM, that transpire into waste water consent conditions. However, we do not support standards that are reduced to allow for further degradation of freshwater habitats containing salmonids and game birds.

3.4 Section 58JB provides for the relationship between infrastructure design solutions and other instruments. The problem with elevating the design solution over a rule, is that you do not provide for ongoing improvement over the course of a very long consent time period (eg 10- 35 years). The rule can focus on the outcome that you want e.g. high quality discharge. Focusing on infrastructure design can allow for compliance for using a named technology, only to find that this technology has broken down and is not functioning properly in 10 years time or that better technology has been invented in 5-10 years time. This would mean that waste water discharges would not be required to improve and reduce discharge effects as technology improves. Therefore F&G oppose the priority of the "infrastructure design solution" over the rule in documents such as National Environmental Standard, National Policy Statement, New Zealand Coastal Policy Statement, Regional Plan, Regional Policy Statement or District Plan.

3.5 A "single standard" approach does not provide flexibility to require a higher standard which is the basis for discharges to waterbodies with higher values. The starting point is to assess the existing values for each waterbody and then ensure that standards / consent conditions do not

undermine or remove the existing values at place. By attributing a single standard approach, values such as trout fishing which requires plenty of clean cool water will suffer as there will be no recognition of the existing state of the water body. Generally, as you go down stream in a catchment there is more degradation. Standards that are set for downstream environments that are already degraded will allow for degradation in catchments where it doesn't already exist or upstream degradation where water quality was previously a higher water quality.

The following excerpt is taken from DOC guidance[3], this is the approach that we expect to see continue for waterbodies with salmonid and game bird hunting values.

What level of species protection is needed?

The highest protection level (99%) is appropriate for ecosystems with high conservation values—it is essentially a 'no effects' protection level. The 99% protection level can also be used as a precautionary level for slightly to moderately disturbed systems.

For ecosystems that are highly disturbed, the 95% species protection level provides a good level of protection for most sensitive species. In very degraded ecosystems (e.g. urban waterways) 90% or even 80% species protection may be appropriate as targets for water quality improvement where these are not met, recognising that 10% to 20% of sensitive species will be potentially affected.

3.6 Define Exceptions

Not being able to set more restrictive requirements than the standard in consenting conditions (apart from on an 'exceptions' basis) will fail to protect water bodies that are already in good condition from degrading. Exceptions should include:

[3] DOC, Point Source Discharges to Freshwater – Technical Guidance for RMA Applications, 2020 (ref 6391589.

- all water bodies with angling and game bird hunting values as listed in Sports Fish and Game Bird Management Plans (under the Conservation Act 1897)
- All outstanding water bodies under the Resource Management Act 1991
- All Water Conservation Orders under the Resource Management Act

3.7 Sensitive Receiving Environments

In the past we have talked about "sensitive receiving environments" and these waterbodies should also avoid using the standards:

- *Areas with increased contaminant residence time eg lakes, ponds, estuaries and wetlands.*
- *There are significant or threatened populations of indigenous species.*
- *The state is sensitive to further contamination including cumulative contamination eg pristine or natural state, or it is degraded and needs improvement, or further contamination will degrade freshwater values or exceed bottom lines.*
- *The receiving environment contains outstanding natural character, features or landscapes or the discharge will affect an outstanding freshwater body or a Water Conservation Order*[4]*.*
- The protection of the habitat of of Trout and Salmon should also form the exception as they are listed in the Resource Management Act as a 7 (h) other matters. Local Government also has a duty under the RMA in managing the use, development and protection of natural and physical resources.

3.6 The "range of treatment options" We know that it is preferrable for water quality outcomes to discharge to land but this work does not promote this

[4] DOC, Point Source Discharges to Freshwater – Technical Guidance for RMA Applications, 2020 (ref 6391589.

option. The following pie chart shows the break down of number of WWTP by discharge environment. The following information is taken from *The New Zealand Wastewater Sector, October 2020 - prepared for Ministry for the Environment.*

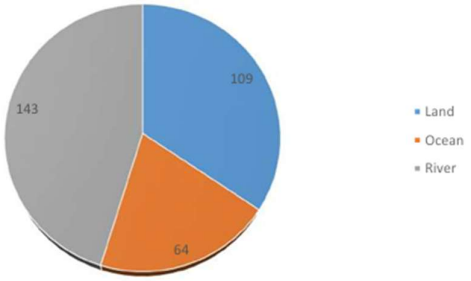

Figure 16: Number of WWTPs by discharge environment

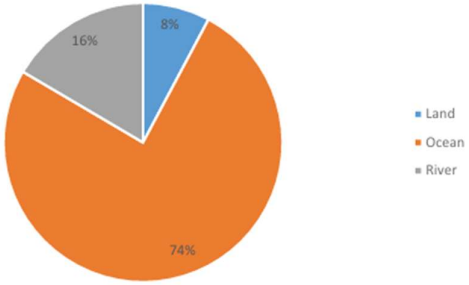

Figure 17: WWTP serviced population by discharge environment

We note that the majority of WWTPs in New Zealand are pond-based systems but they only service approximately 17% of the total serviced population. Activated sludge processes are used to treat wastewater from three quarters of the total serviced population. Compared with conventional pond based systems, Activated sludge processes can be configured to achieve a greater removal of nitrogen and phosphorus from

wastewater and require a much smaller amount of land for the plant. There are a number of treatment plants achieving median total inorganic nitrogen limits of 5-10mg/L (as N) and median total phosphorus limits of 1 to 2mg/L (as P). On the other hand, pond-based systems cannot meet these stringent discharge standards easily and consistently.

Because of the large number of pond based treatment systems in the country, there have been a number of retrofit upgrades undertaken to improve the discharge quality. Some examples include:

- *Aeration upgrade – this improves organic removal.*
- *In-pond media addition – this improves nitrification and achieves partial denitrification.*
- *Membrane tertiary filtration – this significantly reduces suspended solids, cBOD5 and pathogens in the pond effluent.*
- *Conversion into activated sludge process – this is achieved by converting the existing pond (if the pond has sufficient water depth) into an activated sludge reactor or by constructing a much compacted concrete reactor*

F&G support the use of the best available technology possible to improve discharge quality and therefore minimise adverse environmental effects. (MfE 2020, reference 5 below). Therefore any standards that promote pond based systems that involve lower quality discharges is not generally supported by F&G.

3.7 F&G are also interested in what you propose for on site waste water treatment for the 21% of the population that is not connected to the

reticulated sewer system[5]. This discharge often impacts on that Lakes and wetlands that contain hunting and fishing recreational opportunities. Nitrogen removing tanks are superior to standard septic tanks and all new systems should be required to use this technology, unless there is an existing bylaw requiring that the septic tank is sucked out on an annual / biannual basis.

3.8 Contaminants of Emerging Concern

Fish and Game are concerned about Contaminants of Emerging Concern (CEC) that can cause adverse ecological (and human health) impacts. Endocrine disrupting chemicals, microplastics and per- and poly-fluoroalkyl substances (PFAS) are three types of CECs that have received widespread public interest recently both overseas and in New Zealand. It is not clear in this bill if CEC will be monitored by the new minimum standards, and if so in what locations or circumstances.

3.9 2020 review of WWTP:

You have confirmed that approximately 15% of WWTP are now operating on expired consents for an average of four years.

Fish and Game are concerned about the number of expired consents which we assume have not been re-consented as district councils do not want to fund the necessary upgrades to improve water quality discharged as detailed in draft consent conditions offered by the regional council. Lowering the standards to allow for the perpetuation of underperforming WWTP is not a sustainable option either.

[5] The New Zealand Wastewater Sector, October 2020 - prepared for Ministry for the Environment.

3.10 Trade Waste Categories

We support the continuation of the permitted / conditional / prohibited categories, giving examples of sources /substances. This approach takes a risk based approach to safeguard the water quality of the discharge.

3.11 The proposed bill introduces several changes to the regulatory system for wastewater and stormwater environmental performance standards. The key changes to consenting arrangements for water network infrastructure (that aren't covered above) are detailed below:

3.12 Expired Consents

The standards can set the duration that a consent holder can continue to operate under and expired consent (under section 124). Oppose, F&G is concerned that WWTP with regular overflows or breaches will continue to do so as there is no requirement for district councils to set aside the money for upgrades as per consent conditions.

Consents should be granted subject to consent conditions requiring upgrade and specified timeframes for doing this. Failing to set this timetable will result in ongoing discharges that fail standards.

Regional Councils need to be able to carry out their function of maintaining and enhancing waterbodies by attaching consent conditions to district council WWTP consents that will achieve good water quality outcomes. This legislation and lowered standards will stop regional councils from carrying out their functions in the Resource Management Act.

3.13 Activity Status

Regional plans should continue to provide place based WWTP activity status, which will most commonly be a Discretionary or Non Complying Activity. Discharge of untreated sewage should continue to be a Prohibited Activity. On site waste water treatment could be a controlled activity where new and replacement tanks are required to use a Nitrogen removing tank and a Discretionary Activity for any new tanks where this technology is not used.

3.14 Notification

F&G is concerned that the standards will be set too low. Limited / notification should continue to be provided for where WWTP has a history of not meeting their consent conditions, and where the effects are minor or more than minor under s95 (e) of the Resource Management Act.

Many of our Fish and Game regions have submitted on problematic WWTP and stormwater discharges that have resulted in botulism and algal blooms which can kill the species that we manage (ducks and botulism) and game hunting dogs (cyanobacteria). Some examples in recent years include Botulism in Otago this summer, and Northland and Botulism in Whangamarino Wetland in Waikato.

The following photo from March 2023

Thousands of wetland birds have been killed by the recent outbreak of botulism. Photo / Fish and Game NZ

Botulism is often viewed as a naturally occurring problem that is outside the control of obligations of local authorities. F&G note that many of the ponds that have frequent outbreaks are poorly aerated, with high sludge levels. Outbreaks often occur at sites where the ponds no longer provide any facultative treatment function and are largely used for storage when upgraded plants have winter capacity issues. These ponds often have no summer flows, exhibit high > 25°C temperatures that persist for days/weeks and have prolonged anoxic events that lead to fish or invertebrate kills. Other factors may include negative redox potential, high salinity and pH between 7.5 and 9. Unfortunately many WWTPs provide the perfect micro climate for outbreaks to occur and can spread to adjacent areas through the carcass maggot cycle. Outbreaks can be

managed, dramatically decreasing their impacts by adhering to some relatively simple protocols.

Fish and Game suggest that a Botulism Management Plan should be a requirement of at risk WWTP resource consents, although ideally upgrading the WWTP to eliminate Botulism would be our preference. As a minimum the operational management plan shall include:

- *An Avian Management Plan (AMP), taking into account any feedback provided by (applicable region) Fish and Game. The objective of the AMP shall be to provide a framework to be adopted to remedy or mitigate any adverse effects associated with an outbreak of avian botulism at the WWTP. The AMP shall include (as a minimum) the monitoring methods and response actions that will be adopted in the event of an outbreak of avian botulism at the WWTP site.*

The four key parts of a Botulism Management Plan are:

• *Monitoring, including environmental and avian triggers levels that will require management interventions.*

• *Environmental manipulation and proactive dispersals prior to the moult.*

• *Early detection of a botulism outbreak, reporting and escalation.*

• *Recovery of sick birds for rehabilitation and immediate carcass removal.*

3.15 Consent Review

F&G support the continuation of consent authority reviewing consent conditions under s128 of the RMA.

3.16 Consent Duration

F&G opposes longer consent terms such as 35 years in principle as this does not provide for continuous improvement. However if this term is used, 5 yearly and upgrades should also form part of the consent so instead of the consent expiring, it is regularly reviewed and new improved technology can be used to improve discharges.

3.17 Reduced Standards for Waterbodies

F&G are concerned that *"Streamlined consenting processes and assurance that regulators (regional councils) will not be able to impose additional or higher requirements, apart from on an exceptions basis."*

The above statement implies that you think that regional councils impose overly onerous consent conditions on WWTP. F&G does not support this notion. There are many MfE reports stating that considerable investment needs to be made in WWTP to get them up to standard. Making these improvements is what is needed, not a reduction in standards.

3.18 Infiltration and Inflow and Emergency Overflows

Will there be limits set on stormwater entering the sewerage system, thereby increasing the volume and diluting the waste load? F&G is concerned that this may mean that the treatment system may not be adequately sized for the volume of wastewater and thus reduce the quality of waste water discharged. Poorer effluent quality often results in greater adverse effects in receiving waters.

Emergency overflow consents should not be granted to cover these eventualities. Aging infrastructure should be upgraded to avoid

uncontrolled discharges and associated adverse effects. Climate change will only exacerbate this situation and therefore addressing these issues is important to fund with aging infrastructure.

3.19 Implications for councils' Water Services Delivery Plans

F&G does not agree with your assessment. The proposals will result in reduced costs for liaison, stakeholder management and consultation but other items listed will still be needed to design and construct WWTP or carry out improvements. We have also reviewed your case studies on page 7 and 8 of your consultation document. A civil engineer who has project managed such projects is best placed to estimate fee reductions but our assessment is that about a 10% cost savings could be made not the estimated 25 - 40%. Therefore, the proposed changes to the legislation are based on over optimistic cost savings.

3.20 We would like to receive details of the draft standards (and note that they expect to be in place by August 2025 for WWTP) and infrastructure design solutions as well as standards for stormwater when they are publicly available.

Conclusion

4.1 NZ Fish and Game Council is prepared to work collaboratively with the Government on this Bill and performance standards and infrastructure design solutions generally. We are mindful that to be sustainable, development needs to be carried out within environmental limits. New Zealand Fish and Game Council do not agree that reduced standards will result in better outcomes for the environment and therefore the species that we manage. This is our main concern.

4.2 We thank you for your consideration of this submission.

Fish and Game wish to be heard in support of this submission. The following attachments are included to give you more detail about the specific standards that our species require, the work we have done in our waigoodpolicy web page and more general information about what Fish and Game does.

Attachment 1 – Table of examples of Habitat Standards for the Species that we manage.

Attachment 2 – Waigoodpolicy overview.

Attachment 3 – About Fish and Game poster

Attachment 4 – The species that we manage

Attachment 1 - Table 3.16 Some Examples of Environmental Standards for providing salmonid fishery values

Standard	Detail
E. coli	If a single sample from a monitoring site is greater than 540 E. coli per 100 mL, the regional council must, as soon as practicable, take all practicable steps to notify the public and keep the public informed that the site is unsuitable for primary contact, until further sampling shows a result of 540 E. coli per 100 mL or less.
Phytoplankton (trophic state)	<2 annual median attribute band A <10 annual maximum Unit: milligrams chlorophyll-a per cubic metre
Periphyton	Use only the 17% exceedance threshold in Table 2 NPS-FM if that level of exceedance would have occurred under natural occurring processes. The term "conspicuous" has been removed from the NPS-FM 2020 (previously in the 2017 version). Conspicuous periphyton had been interpreted to mean "growing on rocks". Because of this, approximately 25% of the nation's rivers (naturally soft-bottom reaches) were excluded from consideration for nutrient outcomes to control periphyton in the NPS-FM 2017. Changes in periphyton abundance and frequency of blooms can be expected to increase as a result of climate change impacts. Warmer weather, longer periods of low flow, and less frequent 'flushing flows' to remove periphyton can be expected in many parts of the country. As such, you can expect increased periphyton growth during these conditions. This means controls on nutrients to limit periphyton growth will become even more important in the future.
Nitrogen concentrations	Nutrients impact the water quality and induce algae blooms that can decrease water clarity and dissolved oxygen, causing death to sensitive aquatic species. Nutrients also impact macroinvertebrate species composition, reducing food availability for trout, salmon and indigenous fish species. These effects start to occur at nitrogen concentrations above 0.8 mg/l.

Sediment	Deposited sediment cover in most places should be no higher than 20% and below 10% in important habitat/spawning areas for both native fish and trout and salmon. Suspended sediment should provide for water clarity of at least 0.61 - 2.22m, with this varying depending on the waterbody and needing to be much higher where threatened species, trout fishing and spawning, or swimming are identified values.
Temperature	for water bodies during spawning season cool water below 11 degrees for trout. Salmon require water below 14.5 degrees to successfully spawn and 16 degrees for egg maturation.
Dissolved Oxygen	If fish cannot take up enough oxygen to meet their energy demand for essential functions, ultimately they will suffocate and die. We expect dissolved oxygen target attribute states to be set above the national bottom line outlined in Table 7 of the NPS-FM, and applied throughout the catchment, not just downstream of point source discharges. In salmon spawning reaches during spawning season, dissolved oxygen must not be allowed to fall below 7 mg/l at any time.
Habitat Extent	Natural form and extent as well as river habitat and shading can be measured by the Habitat Quality Index and the Natural Character Index, Rapid Habitat Assessment and Stream Ecological Valuation.
Nutrient standards	DIN limits should be < 1.0 mg/L to protect salmonid fishery values. Outcomes for DIN concentrations should be set at around 0.3 - 0.6mg/L and median DRP concentrations should be set at around 0.01 - 0.03mg/L, where these nutrient limits are already met, or are achievable. Where nutrient concentrations exceed these values, reductions overtime should be considered. Changes may be intergenerational.
Hydrological Variability	Hydrological variability should be within 10% of natural flows for small streams and 20% for larger rivers. This does not include permitted activity takes which is largely an unknown quantity.

Attachment 2 – Wai Good Policy

Pooling resources to protect our wai

Our communities have very strong connections to their rivers, lakes, wetlands, and estuaries and want them to be healthy now and in the future. To help navigate policy and rules a group of organisations has worked together on guidance to make it easier. There has been a significant public push in recent years for stronger policy and stronger national direction to protect and restore the health of waterways. In some parts of the country water degradation means communities are losing swimming spots, the ability to gather kai and having poor drinking water quality. We are increasingly experiencing the amplified effects of this degradation as climate change impacts intensify.

The guidance was formulated under the Resource Management Act and to work with the new National Policy Statement on Fresh Water. The guidance offers useful ways of managing fresh water health that are science based and which are founded on an integrated catchment management approach. We will review this guidance as the Government makes its changes but the fundamentals are likely to be enduring under new policy settings.

Regional planning processes can put regions and catchments on the right path to responding to these issues, and to restore the health of our waterways to support the health of our communities.

The waigoodpolicy practice notes will be of interest to regional council policy and science teams, regional council councilors, iwi and hapu groups, Department of Conservation scientists, policy staff, environmental and community groups. This work will also be useful to others who are looking for information, resources and evidence. The web site was created by Fish &Game, Forest and Bird and Choose Clean Water. Fish & Game is a statutory organisation mandated to manage sports fish and game bird species in New Zealand.

Pulling together the most relevant research and case studies we have developed best practice notes for fresh water policy development and implementation. We hope that these resources can support your work creating regional plans that meet the needs of your communities while safeguarding fresh water health for current and future generations.

Eighteen topics are covered and include; protecting the habitat of trout and salmon, indigenous fish species, natural form and character and river extent, protecting drinking water supplies, and environmental flows and take limits.

What does Fish & Game do?

Fish & Game NEW ZEALAND

Who are we? **Fish & Game New Zealand manages, maintains and enhances sports fish and game birds and their freshwater habitats in the best long-term interests of anglers, hunters and all New Zealanders.**

Our vision

A New Zealand where freshwater habitats and species flourish, where game bird hunting and fishing traditions thrive and all New Zealanders enjoy access to sustainable wild fish and game resources.

Together, let's ensure a thriving future for fishing and game bird hunting!

What we do

- Manage fishing and hunting regulations
- Conduct research to monitor fish and game bird populations
- Collaborate with communities to protect natural habitats
- Provide educational programmes and resources
- Advocate for valued habitats and species
- Negotiate and maintain access for anglers, hunters and all New Zealanders

fishandgame.org.nz

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What does Fish & Game do?

Species management: We monitor and survey species populations; set season regulations; and sustainably manage pressure on the resource.

Habitat protection: Advocate and take action to protect and enhance lakes, rivers, streams and wetlands; and secure 'national park' status to important rivers through Water Conservation Orders.

Access and participation: Negotiate and advocate so all New Zealanders can access our natural places; maintain access signage, information and brochures; organise fishing and hunting events and classes.

Public awareness: Maintain public advocacy; schools programmes; website and newsletters; community liaison; promote the right of licensed anglers and game bird hunters to pursue their chosen pastime.

Compliance: Recruit, train, equip and coordinate warranted rangers, to educate and enforce regulations to ensure the fish and game resource is sustained.

Licensing: Provide a nationwide licensing system with a range of licence categories and sales channels that makes it easy to buy a licence. We are solely funded by licence holders.

Council: Hold public meetings of elected licence holders to approve regulations and budgets, set policies and provide governance for the Fish & Game system.

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