



**Targeted Submission to Department of Conservation
National Conservation Policy Statement (NCPS)
Conservation Acts (Land Management) Amendment Bill**

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on behalf of
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A handwritten signature in cursive script, appearing to read 'R Cosgrove'.

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1.0 Submission summary

The New Zealand Fish & Game Council welcomes the opportunity to submit on the Department of Conservation's (DOC) proposals for a National Conservation Policy Statement (NCPS). We have also taken this opportunity to provide some preliminary feedback on the exchanges and disposals criteria that will form part of the Conservation Acts (Land Management) Amendment Bill. Our submission focuses on ensuring that conservation law reform delivers balanced outcomes, protecting indigenous biodiversity while also safeguarding the recreational, cultural, and economic values of sports fishing and game bird hunting.

Our Key Points include:

- **Legislative Framework**
 - The concession system requires clearer criteria for approval and refusal, drawing on Resource Management Act (RMA) gate way tests such as activity classes and sections 104/104D equivalents.
 - Law reform should precede and guide the development of the NCPS. Alternatively, confirmation of what legislation shall be retained should be noted so the framing of the NCPS can be better understood.

- **Area Plans and Places**
 - Area Plans must recognise both natural and recreational values, with spatial mapping of lakes, rivers, wetlands, and associated hunting and fishing opportunities.

- Rivers and wetlands require stronger recognition and protection, while also providing for valued introduced species such as sports fish and game birds.
- **Visitor Zones**
 - Front country zones should avoid locating too close to existing game bird hunting sites. This creates a reverse sensitivity effect that often results in loss of game bird hunting opportunities in these areas.
 - Backcountry and remote zones should exclude intensive farming and exotic forestry.
- **Activities and Concessions**
 - We recommend a prohibited activity status on PCL for exotic plantation forestry, new compound hydro dams, and untreated sewage discharges.
 - Exemptions should include maimai, wetland utility structures, signage, and Fish & Game management activities.
 - Drones should remain restricted for public use but permitted for management purposes.
- **Access and Land Classifications**
 - Current land classifications are too restrictive, limiting firearm use, dog access, and vehicular/boat access essential for game bird hunting and Fish and Game management.
 - Stewardship land reviews and reclassifications must not move land into land classifications that prohibit access to game bird hunting and angling.

- **Fish & Game Management Functions**
 - Legislation should ensure Fish & Game can carry out its statutory functions, including use of vehicles, boats, aircraft, and drones for monitoring, management and enforcement (ranger) duties.

- **Conservation Policy Priorities**
 - Policies must explicitly provide for sports fishing and game bird hunting as legitimate recreational uses of conservation land.
 - Game Birds and Sports Fish should not be treated as pests. Ecosystem health should recognise their contribution to recreation on PCL and used as a central concept in policy and legislation in preference to ecological integrity.

- **Exchanges and Disposals**
 - Fish and Game oppose the disposal of land that provides habitat or access to Game Birds and Sports Fish habitat.
 - Net conservation benefit tests needs be amended to provide for retention in PCL of habitat of Game Bird and Sports Fish.
 - The criteria proposed for exchanges and disposals are set too low, with preferences set to only protect indigenous species and not introduced species.

- **Economic Value**
 - Freshwater angling alone contributes \$66–81 million annually to GDP, supports over 1,000 jobs, and generates \$10–13 million in GST.

2. How the RMA Works and How the Concession Consents Could Work Better

It is not clear how any concession applications will be refused in this new system. There is the opportunity to align the process more closely with the RMA system where activity status signals the difficulty of different activities being approved.

Our submission in January provided a table of activities and suggested activity classes and we have included this again for your convenience.

New sections of legislation could include an equivalent to section 104 and 104D of the RMA so that it is clear how the decision making is to be carried out and how applications can be refused if they are not appropriate to the zoning / place and land classification.

Getting the legislation settings in place first will make this process easier to understand and set up. The settings of the National Conservation Policy Statement (NCPS) should be set after the legislative changes are made. If changes to the legislation are not intended, this should be made clear from the outset.

3. National Conservation Policy Statement

In section 17 of our submission we have reviewed the specific sections of the existing Conservation General Policy that needs to be carried forward to provide for game bird hunting and sports fishing values.

4. Area Plans

Area Plans will clearly outline the conservation values and objectives of an area. Types of values that should be included in area plans and approach to standardise recreation and tourism values.

Fish and Game encourage you to identify both the natural values (e.g. lake, river or wetland) as well as the detailed recreational opportunities / values known in that location e.g. game bird and sports fishing habitat and associated recreational hunting and fishing opportunities. Our Sports Fish and Game Management Plans can assist with identifying these areas.

We note that you will not prescribe activities that DOC (or any other party) will do to achieve the objectives. This intention will fail to signal activities that are not suitable in conservation estate and which should not accord with conservation policy or legislation, because there adverse effects are more than minor.

We note that Conservation Management Strategies has favoured management of land and has not held specific zoning or protections for water bodies. We think that a lot of the thinking that was put forward by the New Zealand conservation Authority¹. *"Rivers are poorly protected in New Zealand. Even where they appear to be protected because they are within land administered for conservation purposes, such as national parks, the water itself is seldom protected"*.

We particularly promote the natural character of rivers and recreational use and enjoyment (including game bird hunting and angling). We note that the recommended assessment of in-stream values and flow regimes under NPS-2020 has still not been carried out.

F&G does not necessarily support the idea of protecting rivers within protected areas, (including national park status) or other land classifications where there are prohibitions that do not provide for game bird hunting and angling recreation.

Focusing only on indigenous biodiversity on conservation estate would be a mistake as there are valued introduced species that also contribute significant recreational opportunities and economic benefit.

Every Wetland Counts² includes recommendations such as doubling the extent of natural wetlands by 2050, implementing a wetland restoration plan, provide funding for wetland restoration map coastal wetlands, account for drained wetlands in the ETS, stop loss of wetlands by land uses such as agriculture, mining, quarrying, land fills and urban development.

F&G recommend that wetland extent in conservation estate should not reduce, to ensure that public ownership continues to protect this habitat.

¹ The New Zealand Conservation Authority, November 2011: Protecting New Zealand's Rivers

² Every Wetland Counts, Forest and Bird. [Every Wetland Counts brochure 1.pdf](#)

5. Places

Places should include specific geographical areas such as wetlands, lakes and rivers to be each identified as a place.

Classification of game bird hunting and angling recreational opportunities should note that water based game bird hunting generally tends to be in the front country, close to road or boat access. Upland game bird hunting occurs in front and backcountry where hunter and dog can walk all day from vehicle to hunt game.

6. Visitor Zones

It would be helpful to define what a visitor zone is - is it a short walk that is very popular or is it walks up to 4 hours return duration with good road access, toilets and large car parking areas? The information provided in the consultation document does not provide much detail on what will be included in the front country.

The proposed visitor zones for amenities, urban, rural and front country zones are supported. However we recommend changing the objectives for assessment for other zones as per answer to question 3 below.

7. Consultation Questions

C1. What should be considered when determining the boundaries of places within an area plan?

Water boundaries should be used as a starting point for identifying places. Wetlands should be delineated. Rivers and their corridors should be identified. These are key areas for natural and recreational values. Regional council administrative boundaries also make sense which is done by waterbody, including its surrounding catchment.

C2. How should area plans describe values and objectives to ensure that they are informative, user-friendly and concise?

We recommend that you use layers so that any geographical area can include more than one value. It is possible that an area will have both natural, cultural and recreational values and all these values should be recognised, provided for and ideally spatially mapped using different layers.

C3. Do you have any feedback on the proposed visitor zones?

Fish and Game would like to see visitor zones avoiding front country game bird hunting activities.

Angling occurs in all zones including front country, backcountry, remote and wilderness areas. Whilst we support restriction of aircraft landings in wilderness areas, Fish and Game need to carry out periodic management functions, such as spawning surveys. Fish and Game need to get aircraft access to Wilderness areas for this purpose e.g. the Karamea River.

Backcountry zone – Minimal infrastructure, noise and crowds

We suggest that Intensive farming practices should also be restricted in this zone, it would also be inappropriate to include commercial pine tree plantations on conservation land.

Remote zone – No Infrastructure, noise and crowd

We suggest that Intensive farming practices should also be restricted in this zone, it would also be inappropriate to include commercial exotic tree plantations on conservation land.

Wilderness area – support proposed objective: legislation restricts buildings, livestock, aircraft landings. In addition to restricting livestock, commercial exotic tree plantations should be prohibited.

Fish and Game will not comment specifically on economically significant activities. However we do promote the use of aircraft for management and back country access, vehicular access for management and game bird hunting and anglers.

Fish and Game note that the first NCPS will state the land classifications and visitor zones that the following economically significant activities can take place in:

- *tourism infrastructure and facilities;*
- *ski fields;*
- *aircraft landings;*
- *grazing, beehives and planting; and*
- *utilities, roading and public infrastructure.*

Consultation Questions Continued...

C4. Do you have any feedback on the proposed approach for standardising where activities can and cannot occur?

This approach is sensible and should include a spatial planning framework. It is not clear what "Planting" means in the economically significant activities listed on page 8 of the consultation document. If this relates to exotic, including pine species, tree planting on conservation estate, we note that in our submission to this proposal we recommended continuous cover indigenous planting for carbon benefits rather than clear fell pine tree plantations that do not adhere to conservation outcomes and add significant sediment to waterbodies and erosion of land during clear fell harvest.

As noted above, we are focused on allowing recreational game bird hunting and angling activities on PCL. As explained below in our submission, there are many classifications of DOC land that presently do not provide for or prohibit hunting activities (carrying and discharge of firearm), or restrict camping, vehicular use, use of boats, access for dogs which effectively also restrict access for our licence holders. This is not allowing our licence holder to assist with being part of the solution when management of Valued Introduced Species is needed.

C5. Are there other activities that should be standardised by the NCPS?

F&G have provided specific recommendations in the section below which analyses the existing Conservation General Policy (CGP). These recommendations should also be included in this response.

In addition to those recommendations, we need to see the following activities made easier, in more places:

- Carrying of firearms, including shotguns for game bird hunting;
- Discharge of firearms, including shotguns for game bird hunting;
- Vehicular access;
- Boat access, including motorised boat access; and
- Access for game bird hunting dogs

C6. Do you consider any of the proposed activities to be inconsistent with any land classifications or proposed visitor zones?

It is reasonable that most recreation reserves would likely be zoned as urban or front country.

Fish and Game are concerned that many of the existing land classifications prohibit things like motorised boat access, vehicular access, carrying and discharging a firearm, access for game bird dogs. Under section 18(1) of the Wildlife Act, game birds may only be hunted and killed with a shotgun. DOC's online permits for 'open' hunting areas specifically prohibit the use of shotguns for hunting, irrespective of species, which limits gamebird hunting opportunities on conservation land. This stops our licence holders from accessing much of public conservation land (PCL). Furthermore, when game bird hunters are needed to control populations, they are prohibited from doing so as many land classifications do not allow for discharge of firearms.

We are concerned that the proposed urban zone / front country areas may take up more area than they should and include prohibitions on game bird hunting and angling and thereby resulting in less access for hunting on PCL.

8. What is Needed for Game Bird Hunting Activity

Generally speaking game bird hunting areas are best separated from general public walking tracks and use of waterbodies as walkers can disturb the birds and this makes it more difficult to hunt game birds. Having said that the hunting regulations require hunters to shoot birds in flight, not on the ground so the possibility of accidentally shooting someone on the water or walking on a track should be very low. Under the Arms Act, hunters are responsible for using firearms safely, including following the Firearms Safety Code.

Game Bird hunting recreation requires access to the resource, and water based hunting in particular needs to be fairly close to vehicular or boat access. Upland game bird hunting needs access, but generally hunting is done on foot from the vehicle with the dig used to flush out the birds. Hunting requires:

- the ability to carry and discharge firearms and
- access for game bird hunting dogs which are generally kept in sight and under control.

9. Kiwi Aversion Training

Our licence holders have asked about kiwi aversion training and we would like to see this training made available in the South Island. Game bird hunting dogs are highly trained and very capable of distinguishing between mallard ducks and kiwi and therefore we would like to promote

this form of training so that our licence holders can go to a wider classification of PCL.

10. Fish and Game Management Function

All land classifications need to allow Fish and Game to do their management job. This means that they need to be able to get vehicular, boat and helicopter access into front country, backcountry and wilderness areas (such as the Karamea River for spawning surveys). New policy and legislation needs to provide for this function. Many existing land classifications do not allow for Fish and Game management function to be carried out. Some legislation and land classifications provides for this under provisions for rangers. Use of technology such as drones to carry out our management function is also required. We suggest that this is also an exempt activity.

11. Some Existing Land Classifications are Too Restrictive to Enable Game Bird Hunting

There are some examples of land classification that include prohibitions that make game bird hunting and angling more difficult than it needs to be. Fish and Game would like to be involved in a review of these land classifications to ensure that our licence holders can gain better access to PCL. This should especially be the case when Fish and Game has been asked to assist with management of game birds e.g. around airports to avoid bird strike and around pastoral farming operations to avoid crop depredation.

It is especially important that when carrying out the Stewardship Land review, that game bird hunting values and access with boats or vehicles and dogs is not lost when land is classified into more restrictive land class.

We have included below a standard South Island open areas hunting permit, note this doesn't include use of shot gun for game bird hunting. A hand written receipt providing for GB hunting purpose under special conditions is needed in addition to the standard hunting permit to provide for game bird hunting and dog access.

Standard conditions and notes:

Standard conditions

1. This Permit authorises ground based non-commercial hunting of only deer, pigs, goats, wallabies, chamois or thar/tahr within the timeframe specified as "permit validity period", unless otherwise stated in the Special Conditions.
2. The Permit is only valid for the "open zone" area specified as green in the map associated with the permit area (maps are available in the permit application system when an area is selected).
3. Hunters using a firearm must abide by the NZ Police Arms Code and the Arms Act 1983.
4. The following activities are strictly prohibited:
 - Hunting during the hours of darkness (1/2 hour after sunset to 1/2 hour before sunrise).
 - Hunting with spotlights, torches, vehicle headlights, or any other artificial light source.
 - Hunting with any night vision equipment, thermal imaging, infrared or heat detecting devices.
 - Attaching a torch or other light source to a firearm.
 - Hunting with any shotgun, rimfire rifle, 17 or 22 hornet calibre, air rifle, or tracer and incendiary type ammunition.
5. No firearm shall be discharged:
 - In the vicinity of huts, tracks, campsites, road-ends or other public places.
 - Within 500m of a Great Walk Hut or track. [More about New Zealand's Great Walks.](#)
 - In a manner that endangers, frightens or annoys members of the public, or that endangers any property.
6. Only centre fire rifles of calibre .222 Remington or larger may be used for hunting, or crossbows and bows that meet the minimum standard specified by DOC (See [More about Bow and crossbow hunting](#)).
7. This Permit does not authorise access to any land held under lease or where access is restricted by the Department. For details about land held under lease or restricted areas, contact the nearest Department of Conservation office.
8. This Permit does not allow access over any private land. Permission to cross any private land must be obtained from the land owner or occupier.
9. The Permit does not allow vehicles or dogs to be taken or used for hunting, unless otherwise stated in the Special Conditions above.
10. Carcasses and offal must not be left at, or in the vicinity of, tracks, huts, campsites, or in waterways.
11. This Permit is not transferable and must be produced on demand to any warranted officer, Department of Conservation staff member, or Police officer.
12. Breach of any conditions of this Permit renders this Permit null and void and may result in prosecution.
13. The Department of Conservation may suspend or cancel this Permit for any reason by public notice, notice on the Department's website, email, or letter to the Permit Holder.

12. Recommendations relating to Land Classifications

F&G recommendation: there needs to be a better and easier mechanism for licence holders to be able to access all sorts of land classifications to hunt game birds.

It is not F&G's responsibility to come on to PCL (or private land) to control game birds without compensation payment. F & G issue permits under the Wildlife Act to disturb and kill gamebirds causing damage to land and / or crops and sometimes organise for management of game birds where the land owner pays a fee. Game birds are owned by the Crown, as per the Wildlife Act and therefore ultimate responsibility is with

the Crown and land owners to decide that there are adverse effects from game birds on their property.

Fish and Game strive to work with land owners to address issues including airports and the issues of bird strike. Fish and Game also assist farmers with pastoral farming and the issues of crop depredation. Both issues can be particularly problematic when aviation and farming activities, particularly palatable crops, are located close to known gamebird habitats, including wetlands, lakes and rivers.

Here is an example at Westport Airport where there is a reserve on the northern side of the airport and a Wildlife Management area on the southern side of the airport. The following snip is taken from Map 3 of the Westcoast Conservation Management strategy (Volume 2). We have been asked to assist with game bird population control by the airport but DOC doesn't allow us access to the reserve or wildlife management area with dogs or firearms to do the population control work.



F&G have asked to work with officials to identify recreational sport fishing and gamebird hunting values currently held in stewardship land. This consultation takes on a wider range of land classification and we ask you to include game bird habitat and sports fishing as recreational values.

In our submission in February this year we suggested a number of exclusions for exchanges and disposals. Although we do not support the idea of exchanging or disposing of more PCL we recommend that land which includes game bird hunting values or provides physical or legal

access to sports fishing opportunities is not exchanged or disposed of and is retained in public ownership in perpetuity.

With any change to land status / classification and legislation reform F&G would like to see more access made available to game bird hunters and anglers, not less. This includes the aforementioned removal of barriers such as dogs, vehicles and discharge of firearm prohibitions.

13. Consultation with Fish and Game

DOC presently does a good job providing details of applications on their web site proposals on conservation land. This means if you regularly review their web site you can stay informed of proposed concessions, exchanges / disposals etc.

Fish and Game would like to be specifically asked for comments when proposals involve game bird and sports fish habitat. Our Sports Fish and Game Management Plans can assist with locating these areas, although they don't necessarily detail game bird hunting areas. In time your mapping system should include these values spatially.

Fish and Game can assist DOC with advice regarding game bird hunting and angling recreational opportunities. F&G would like to be statutory consultees for the following:

- Development of Area Plans and identification of sports fishing and game bird values and recreational opportunities.
- Concession applications involving wetland, river and lake habitat on or near game bird and sports fish habitat.
- Stewardship land review
- Exchange and disposal of land on or adjacent to sports fish and game bird hunting habitat.
- New proposals near game bird and sports fish habitat e.g. mountain biking tracks
- Policy and proposals regarding RAMSAR sites that F&G manage of and where game bird hunting occurs.

We have also included a table of our other advocacy interests in attachment 4.

14. Standard Conditions

F&G support the development of standard conditions and we are sure your concessions team has already been working with these for some time.

F&G would like to assist with conditions relating to water bodies and activities involving game bird habitat and sports fishing waterbodies.

We would particularly like to see standard conditions relating to spacing of solar panels on solar farms to avoid bird strike.

15. Bonds and Who Pays When Things Go Wrong

F&G recommend that new policy and legislation provides firm direction for concessions to enter into bonds to pay for and manage the decommissioning of their activities or removal of their infrastructure when their activity ceases. Payment for this should not be left on any occasion to the New Zealand tax payer.

16. Area Plans

Land classification and proposed "visitor zones" will state where activities can and cannot occur.

Fish and Game want to see more opportunity for recreational game bird hunting and angling, not less through visitor zones that may provide more for overseas tourists than resident hunters and anglers. Visitor zones must continue to be set up for multiple values and users, including management of competing activities to avoid recreational displacement. Multiple values and recreational users will apply to many areas and zones need to provide for this.

Visitor Amenity Area to provide for recreational and public amenities where appropriate. Or if Visitor Amenity Areas are very small, only providing for picnic area, toilets and parking other recreational needs will not be provided for.

A key change that F&G would like to see with future documents is a change from CMS focus on land management mapping, to focusing on

water body mapping also. With more and more activities occurring on water bodies this has become important. It is also key for identifying and protecting habitats of game birds and sports fish. Identification of water bodies in conservation estate and protections also need to provide for Valued Introduced Species, and not only focus on endemic or endangered species.

17. Review of Conservation General Policy which will be replaced by Area Plans

Existing Policies relevant to Fish and Game

We note that the 13 page consultation document does not detail what is being carried forward from the conservation general policy. We agree that policies that repeat legislative requirements or restate functions should not be carried over.

Key issues for the work we do that do need to be addressed include the following:

- Terrestrial and freshwater species, habitats and ecosystems
- Biosecurity and management of threats to indigenous species habitats and ecosystems
- Changes to PCL
- Planning and management for people's benefit and enjoyment
- Sports fishing and game bird hunting
- Use of vehicles and other forms of transport
- Animals
- Activities requiring specific authorizations
- Research and information needs
- Plans
- International Agreements and Cooperation

The consultation materials fail to detail what of this policy will be carried forward into the NZCP. The following section highlights the key sections from the existing Conservation General Policy that we recommend is carried forward in relation to Fish and Game values and functions.

Terrestrial and freshwater species, habitats and ecosystems

4.1 (a) Area plans should identify indigenous species and their habitats and ecosystems, recreational freshwater fisheries and their habitats, game birds and on PCL and waters their habitats.

4.1 (h) Liaison between DOC and F&G to continue

4.1 (i) Release of sports fish into waters in public conservation land should be authorised where..

Biosecurity and management of threats to indigenous species habitats and ecosystems

Update language to differentiate between pests and valued introduced species. Expansion of the ecosystem services scope and definition to align better with NPS-IB.

Changes to PCL

A key topic for discussion is criteria for future exchanges and disposals, and criteria for not allowing exchanges or disposals. F&G also want to see the continuation of “secure practical walking access to PCL and waters, rivers lakes or the coast”. We also want that access to wetlands, with the ability to use firearms and with game bird hunting dogs. So better consideration of these other issues would be beneficial.

F&G recommend the continuation of

6 (c) Land disposal may be considered where the legislation to which it is subject allows for disposal and the land has no, or very low, conservation values. And 6 (d) including

i. has international, national or regional significance; or

vii secures practical walking access to public conservation lands and waters, rivers lakes or the coast.

We recommend adding “wetlands” to this wording.

Planning and management for people’s benefit and enjoyment

Policy 9 is still relevant and needs to be carried forward to allow for a range of recreational opportunities on PCL and waterbodies. We note that while sports fishing will be compatible with other recreational users (those walking, biking, rafting, kayaking) there will be instances where game bird hunting needs more space from other activities.

F&G support the continuation of policy 9.1 (g)

9.1 (g) Public access to public conservation lands and waters will be free of charge. Charges may be made for the use of accommodation, facilities and services.

and

9.1 (h) The Department may undertake advocacy and work cooperatively with other people and organisations to secure practical walking access to public conservation lands and waters to which there is no alternative practical walking access.

Policy 9.3 Hazards to people

9.3 (b) Recreational activities that create hazards for other people should be managed to reduce the risk of harm.

F&G support the continuation of the above policy relating to risk of harm.

Sports fishing and game bird hunting

The new area plans should replace the CMS requirement to provide for access to recreational fishing for sports fish in policy 9.4 (a) and CMS should provide for hunting of game birds on public conservation lands where such hunting is consistent with the purposes for which the land is held and does not have adverse effects on absolutely protected species or on populations of indigenous species.

Use of vehicles and other forms of transport

Policy 9.5 (a) needs to be reviewed so that use of vehicles can assist with better enabling recreational opportunities. The reality is that many recreational opportunities do not get taken up if the walk to the resource is too long or physically demanding.

Animals

F&G ask for a review of policy 9.6 (a) so that game bird hunting dogs will be allowed access, under control of their owner to hunt game birds.

Activities requiring specific authorizations

These authorisations should not be provided and then exclude other users of PCL. Conservation land should still prioritise good environmental outcomes and this includes stock exclusion on high country farms, giving the river room to roam and not farming up to the wetted edge of rivers and lakes. At least a 20m setback from water bodies is needed to reduce the run off of diffuse discharges should be provided. Public access to water bodies should still be a priority when land is leased for grazing activities.

Policy 11.2 (a) iv. *any adverse effects of stock on waterways, wetlands and riparian zones can be avoided or otherwise minimised;*
F&G recommend a minimum of 10m but preferably 20m setbacks from waterbodies for pastoral activities³.

Policy 11.2 (a) ix. *public access is maintained*

F&G note that with grazing activity in many instances public access to water bodies has been reduced because walking up water bodies does not provide good access or it may take over a day to get up the river, where as road access may provide a 2 hour walk to the fishing spot. Therefore we assert that in many instances public access has not been maintained in association with existing grazing leases and future policy needs to ensure that better, more direct access is secured.

Policy 11.3 Utilities

F&G note that where utilities effectively block existing access, new access should be created so that access is provided. Creation of new access around proposed and existing utilities that effectively block access should be created. We made this point in our recent submission to National Direction Infrastructure submission where access should be provided or maintained around infrastructure to continue to provide access to waterbodies.

Policy 11.4 Crown minerals and pounamu

Where access arrangements are made, new access arrangements should be provided for public access.

Policy 11.5 Commercial Filming and photography

Policy 11.5 fails to give sufficient guidance on public access when filming is proposed. F&G's view is that public access should not be removed.

Policy 11.6 Military training exercises

Public access to areas of defence force land could be better managed to provide public access when the land is not in use for training such as they do in Dartmoor National Park in the United Kingdom. A system using flags and a web site confirming what blocks are open and what ones are closed could be developed to provide access for hunting and walking.

³ [riparian-setbacks-summary-of-the-science.pdf](#)

Policy to be Carried forward to New Area Plans

Policy 13 provides for Conservation Management Strategies and Plans. Policy 13 (a) requires CMS and Plans to include identification of natural resources and recreational opportunities on land and water (and other values), outcomes objectives and policies, conflicts, adverse effects including cumulative effects.

Policy 13 (a) v. objectives for departmental advocacy relating to conservation outside public conservation lands and waters; and should also have regard to: vi. relevant territorial authority statutory planning documents; and
vii. integrated management of places to achieve national conservation outcomes, and to coordinate planning between places covered by other conservation management strategies and plans.

F&G wants to work with DOC and their experts to do this work even if separate submissions are made. Presently, we work on the ground more with EDS and Forest and Bird and the recreational community who actively submit on access issues.

International Agreements and Cooperation

Policy 14 (a) The Department will implement international agreements relevant to conservation that have been ratified or have legal standing in New Zealand.

Policy 14 (b) Conservation management strategies and plans should identify and protect places and resources that meet the requirements of international agreements.

F&G look forward to working with DOC relating to these agreements, particularly RAMSAR wetlands as Fish and Game are the managing body of some of these sites in New Zealand.

We also note that the RAMSAR sites are managed under different land use classifications and any review of this we would like to be consulted on. They range from stewardship area (Whangamarino), Wildlife Management Area Kopuatai Peak Dome), Coastal Reserve (Firth of Thames), Conservation Area, PCL (Manawatu Estuary) and Water Conservation Area (Lake Wairarapa), Nature Reserve (Farewell Spit) and Scenic Reserve (Waituna Wetland).

Glossary from Conservation General Policy (CGP)

Existing definitions should be carried forward with the exception of the following:

We ask you to add a new definition to conservation work and that is the “Braidplane” definition included in the submission included in appendix 5 of this submission.

Ecosystem Services – new definition provided in NPS-IB should replace the CGP definition.

Ecological Integrity – F&G prefer the use of “ecological health” as per NPS-FM as this provides for Valued Introduced Species and pastoral activities and recognises that we can’t go back to a pre human state of ecology in New Zealand. All species, except pest species forms part of today’s ecological system and state of ecological health.

If ecological integrity is your goal, you would need to plant with indigenous trees on all those farms that are in pastoral leases to provide more habitat for native species because the key issue for these species is reduction over time of habitat.

Eradicate (or exterminate) – we note that exemption provided in the National Parks Act for game birds and sports fish. This exemption should be carried forward to new policy documents.

National Park Values

Values outlined in section 4 of the National Parks Act 1980. As per comment under ‘eradicate’ above, values in National Parks could be reviewed to provide for other recreational activities where required for management purposes. GAC can submit on this in more detail.

Natural state *Unmodified by human activity or introduced plants or animals and reference this back to ecological health.*

Fish and Game recommend that there should be an exception placed on this definition for sports fish and game birds because these species often located and thrive in water bodies that are unmodified and pristine. The exclusion of these valued introduced species would not make any sense. Many regional plans have identified trout waters as natural state and have not excluded introduced species in their definition.

New Zealand Biodiversity Strategy

Valued Introduced Species are acknowledged in this strategy and their place in the conservation estate and policy also need to be acknowledged in a positive light. Hunting and fishing values are widespread and these values need to be better provided for in the new Area Plans.

Pest

Any organism, including an animal, plant, pathogen or disease, capable or potentially capable of causing unwanted harm or posing significant risks to indigenous species, habitats and ecosystems or freshwater fisheries.

F&G recommend that you make it clear that game birds and sports fish and not considered pests and that definition of pest is lead by Biosecurity Act and Pest Management Plan processes run by regional councils.

Fish and Game also recommend that you provide a definition for the bed of the river, particularly for application to braided rivers. This wider definition will allow you to better manage patrol leases and reduced adverse run off effects from these land uses.

Definition of river bed this should be consistent with RMA definitions.
Definition of braid plane for braided rivers

We recommend that a new definitions for river bed and additional definition for braid plane on braided rivers are needed to protect and not provide for activities to occur within the river bed and wider river corridors so that the river can be left to move in flood events.

We have provided definitions for exempt activities below in section 20 of this submission for Wetland Utility Structures and Maimai and Fish and Game signage.

Game Bird Hunting includes access for one dog under the control of the F&G licence holder, who much also obtain dog and land access permit when hunting on PCL. We would like to provide these permits on your behalf on line in the future to make it easier for our licence holders to get the correct paperwork.

18. Pre Approved Applications

Game Bird and Angling Guiding Activities

Fish and Game support the exclusion of game bird hunting and angling guiding activities from being a pre-approved activity. Our understanding is that the global concession is working well. However, if future activities are only divided into exempt, pre approved or prohibited it makes sense that these guiding activities should also be pre approved activities.

Fish and Game support this proposal, noting that there will be a variety of views within our licence base.

Our key concern with the existing system is that we understand anecdotally that no enforcement work is taken with these concessions and some guides claim that there are guides that operate unlawfully outside the concession. We therefore recommend that you better resource enforcement of concessions.

19. Drones on PCL

We understand that DOC has already reduced processing time for these consents from 8 weeks to 1 week recently. Is the pre-approval very dissimilar to the concession process as this speeding up of processing consents has already occurred.

Fish and Game do not support DOC stepping back from it's "drones not allowed" stance on PCL. Drones in both the front and backcountry can be obnoxious and disturb the enjoyment of recreation.

Fish and Game support the considerate and mindful use of drones, particularly for working purposes e.g. forestry, survey, limited photography applications but do not support the use of drones by the general public as this is not always done in a considerate way. Our main concern is that proliferation of use will lead to conflict between users of PCL.

F&G's ranging and management activities involve the use of drones, this should continue as part of our ranging functions and not need a pre-approval to do this work. This work can include population monitoring and assessment.

We are also concerned that drones can have negative impacts for wildlife. DOC has issued media releases on this topic and this reference provides one example⁴. We thereby re-iterate our recommendation to continue to promote not using drones by the general public on PCL and only provide for it with consent, to commercial users and ensure that they are acting responsibly towards wildlife.

20. Exempt Activities

Wetland Utility Structures

Fish and Game recommend that Wetland Utility Structures should also be an exempt activity to create access to game bird hunting recreational opportunities on wetland PCL. This could be in accordance with sections 41 and 42A of the Building Act (work which doesn't require building consent).

Fish and Game are also looking for opportunities for accessible game bird hunting sites not only near car parking spaces, but with easy access to get to the mai-mai so that less physically able game bird hunters can continue with their sport⁵. The Kaituna accessible spot is located 20m from the road end which makes it particularly good for wheelchair hunters.

Maimai Structures

Generally 10m² structures will not require resource consent and we would also like for this to be made clear as an exempt activity on PCL. Generally these structures will be constructed and clad with natural materials, with the exception of some structures having a metal roof. Most other regions leave structures year round and have a "pegging day" in which structures are secured by individuals as their spot for game bird hunting. Such structures can only be used by others after 7.30am if not occupied by the person who first secured it.

There are some agreements that provide for smaller structures for example Te Waihora where maimai are a maximum size of 5m².

⁴ [Birds vs drones: Pilots flouting rules, DOC says | RNZ News](#)

⁵ [Duck season: Kaituna's new maimai accessible to hunters in wheelchairs - NZ Herald](#)

Signage

Access signage is generally small in size and allows Fish and Game to show game bird hunters and Anglers where to park and walk to hunting and fishing spots. This signage should continue to be exempt from needing consents or concessions.

21. Prohibited Activities and Other Activity Classes

F&G oppose the proposal for the NCPS to class concessions as prohibited, exempt and pre-approved. We note that this will not give you enough tools to refused or condition consents. Our submission from February 2025 made suggestions on activity classes that you could use.

We suggested Pre Approved activities could include drones (for commercial use, not use by members of the public), drain maintenance, culverts that provide for fish passage, telecoms, accommodation in prescribed zones, grazing if non intensive, filming, carbon forestry, scientific work and wild animal control.

We suggest that use of drones by the general public should continue to be restricted requiring a concession as a discretionary activity.

We also suggested that discretionary activities could include commercial guiding, aircraft and boating, wind farms and solar farms (these should provide public access), riparian vegetation removal, intensive grazing, gravel extraction, plantation forestry (continuous cover), infrastructure concessions, accommodation, events and ski fields.

Non complying activities should include: new run of river hydro electric dams, structures in waterways e.g. large scale water storage dams (over 20,000L), activities resulting in permanent change to instream habitat, defined lighting in dark skies accord areas, instream works during spawning, intensive winter grazing, gravel extraction with threshold, exotic plantation forestry (requiring a change of legislation) and mining where monitoring conditions involved over 100 years of ongoing environmental monitoring post closure of the mine.

The different activity classes also need an equivalent tests to section 104 of the RMA and s104D so that discretionary and non complying concession applications can actually be refused.

22. Consultation questions

C7. *Do you have any feedback on the proposed exempt and pre-approved activities?*

Yes, see sections above why we oppose general public use of drones but support work place use of drones and F&G's use of drones for management purposes.

C8. *Are there other activities we should consider for pre-approval or exemption, including cultural activities to support Māori access to conservation land?*

Yes, Fish and Game have recommended above that wetland utility structures, should be exempt activities.

C9. *Do you have any comments on when it would be appropriate for an area plan to disapply categorisations and / or conditions?*

In section 12 of our submission F&G notes that many land classifications prohibit carrying of firearms, discharge of firearms, use of motorised boats, use of vehicles, access for game bird hunting dogs, camping etc all activities that restrict hunting activities on PCL. Better management of our species could occur if these restrictions were removed or reduced.

C10. Do you have any other comments on the provision for exempt, pre-approved and prohibited activities?

Exempt and pre approved comments have been provided above in section 18-21 of our submission.

We recommend that prohibited activities should include:

- new impoundment or diversion type hydro-electric dams not providing fish passage.
- We also recommend that discharge of raw sewage is an unacceptable practice both for the health of the water body and public health and we also recommend that this is also prohibited in conservation estate.
- We also consider that commercial clear fell pine forestry is not good use of PCL and should be prohibited. We have detailed this further in section 26 and included our full submission on this matter from February 2025 in attachment 3.

23. Exchanges and Disposals

Our submission dated February 2025 we included criteria for exemptions for exchanges and disposals. While the list you have landed on is a good start, we urge you to re-consider the other water bodies that we suggested. We note 40% of conservation land would be excluded including National parks, national, nature and scientific reserves, wilderness and sanctuary areas, wildlife sanctuaries, RAMSAR sites, World Heritage Areas, Ecological areas and reserves that are not Crown-owned and *“any land that has been assessed by the Minister as having cultural, national or international significance is excluded”*

We specifically asked that public access be provided to disposed of PCL. We also asked that land surrounding and providing access to Water Conservation Order water bodies should be retained and not disposed of. We also asked that land abutting and providing access to Outstanding Waterbodies should be retained and not disposed of. PCL including wetlands should not be exchanged or disposed of or be compromised by water storage or mining operations.

Fish and Game note that much of the 40% conservation land that would be excluded from exchanges and disposals is not available for game bird hunting anyway. So therefore our focus is on what is happening to water bodies and particularly wetlands where other activities such as water storage, solar farms and mining operation may want to buy or exchange this kind of PCL. Recreational opportunities to game bird hunt is already reducing due to exclusive capture and reverse sensitivity effects. Fish and Game do not want to see a reduction in recreational opportunities on PCL, particularly for game bird hunting which is more at risk than angling in the stewardship land review or any other land re-classification process.

24. Net Conservation Benefit Test for Land Exchanges

We note that the following criteria will be used to assess net conservation benefit (NCB):

- *Improve representativeness of public conservation land or*
- *Improve the natural functioning or integrity of places or*
- *Prevent significant loss or result in the improved protection of natural resources, biodiversity or historical and cultural heritage; or*
- *Improve natural linkages between places; or*
- *Secure practical walking access to PCL and waters, rivers, lakes or the coast;*
or

- *Achieve any other purpose allowed for under the relevant Acts for protected area management.*

Fish and Game is concerned that the above criteria is set too low and with the requirement to only meet one of these elements “or” it will be too easy to exchange land. This will result in land being exchanged that includes angling and game bird hunting recreational opportunities and access to those waterbodies.

None of these criteria provide for the retention of land surrounding or water bodies that are significant to habitat for game birds or sports fish. We therefore recommend that land exchanges should not be provided where significant habitat and access to game birds or sports fish would be lost to private interests.

We note that the following thresholds have been proposed for disposals:

- *Values on the land are not considered essential for indigenous biodiversity conservation*
- *Conservation values present are represented in other protected areas in the region;*
- *There are no rare or distinctive species or ecosystems; and*
- *The Director General has recommended disposal.*
- *Also a range of factors the Minister must consider (eg public access, ecosystem services, recreation, conservation of biodiversity)*
- *Minister can decline to exchange or dispose at any time for any reason.*

Fish and Game oppose the above thresholds for disposals. They do not consider the recreational and economic value of Valued Introduced Species such as sports fish and game birds. We are concerned that if endangered species are not present disposal would be possible.

Further, there is no clear signal to retain more or less the same amount of land so there is no way of knowing if the overall size of the PCL is set to significantly reduce. This is concerning as this could result in a large amount of PCL being disposed of and we know that the stewardship land classification is the easiest one to start with as values have not been assigned. We have already pointed out that a lot of stewardship land involves angling and game bird hunting recreational opportunities.

25. Stewardship Land Review

Fish and Game understand that decisions regarding the stewardship land on the Western side of the South Island numbering 576 titles are due to be made. We are available to advise on game bird and angling recreational opportunities on this land. We note that the West Coast Regional Council has already done a great job of scheduling and mapping wetlands on the West coast⁶, and many other regional councils have also done this work. While on one hand F&G like this classification of land for access to game bird hunting opportunities that some other land classifications prohibit.

26. Pine Trees and Conservation Estate

Sediment loss to rivers during harvest operations is the key concern relating to clear fell commercial forestry operations. Therefore in our submission in February 2025 F&G noted a preference for continuous cover forestry as set out in the National Environmental Standard for Commercial Forestry (NES-CF) or the planting of indigenous forestry. Fish & Game also highlighted the risk of wilding pines, and recommended avoiding planting exotic plantation forestry on PCL near tussock, alpine and tundra environments, should be considered. We have included a copy of this submission in attachment 3 for your reference.

27. Game Bird Permits – Land Owner Permission from DOC

[Hunting permit: Permits and licences](#)

The problem is that Game bird permits are only issued through the local DOC office that administers the site. Not all regions have game bird hunting areas available so you have to call the local DOC office first. Some of these offices are not open everyday and generally it would be easier to get the land owner and dog permission ahead of travelling there.

Most other forms of land owner consent via DOC can be obtained online. Our licence holders would like to see game bird permits also issued online ahead of them coming to the site where they plan to game bird hunt.

As mentioned previously in this submission, we would also like to assist with the review of land classifications that prohibit activities that provide for game bird hunting with a view to increasing the amount of PCL available

⁶ [Microsoft Word - 14. Schedules 1-3](#)

for game bird hunting. This would better enable us and our licence holders to control populations of game birds.

29. NZIER Economic Value of Fishing in New Zealand

Fish & Game contracted NZIER to carry out research regarding the economic contribution of freshwater angling¹⁰. Note this work does not include the Lake Taupo Fishery, so it relates specifically to the rest of New Zealand, which Fish & Game manage.

Economic Contribution

- Angler Participation: Domestic and international anglers spend around a million days on angling trips each year.
- Expenditure (direct spending by anglers): Anglers spend between \$113.0 million and \$138.6 million annually on their trips. This represents the actual money spent by anglers at tackle shops, accommodation, food, transport, and other related purchases.
- Economic Output (value of supply): This spending results in \$96.0 million to \$117.7 million in total output. This figure is lower than expenditure because it excludes taxes and imports (e.g., imported fishing equipment). Output represents the value of goods and services produced domestically as a result of the angler spending.
- GDP Contribution (value added): Freshwater angling contributes \$66.2 million to \$81.2 million in total value added (GDP). This represents the economic value created after subtracting the cost of inputs used in production. It's the difference between the value of outputs and the cost of inputs, showing the true contribution to New Zealand's economy.
- Employment: The economic activity supports between 952 and 1,168 jobs nationwide.
- GST Revenue: Angling activities generate \$10.6 million to \$13.0 million in GST.

30. Conclusions

Fish & Game seeks a collaborative approach with Government and DOC to ensure conservation law reform protects biodiversity while also sustaining New Zealanders' longstanding tradition to game bird hunt, fish, and enjoy public conservation land.

- Decisions from the Stewardship land review on the West Coast
- Being able to obtain permits on line for game bird hunting or allowing F&G to provide this service.
- Identification of game bird hunting and angling values in Area Plans
- Consultation with us about game bird hunting and angling values in stewardship land reviews and land proposed for exchanges and disposals.

Attachments

Attachment 1 About Fish and Game and the species that we manage

Attachment 2 Stewardship Land Review submissions 2022

Attachment 3 Pine Trees on PCL 2025 submission

Attachment 4 F&G Advocacy and Consultation Table

Attachment 5 Braided Rivers Submission to NBEA 2023

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 game¹.
- 1.3 Our vision, purpose and values are illustrated below:

OUR VISION 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.	OUR PURPOSE 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.	OUR VALUES TRUST INCLUSION CONNECTION SERVICE
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- 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 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.

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.

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.



What does Fish & Game do?

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.

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

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

fishandgame.org.nz
#ReWild



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.

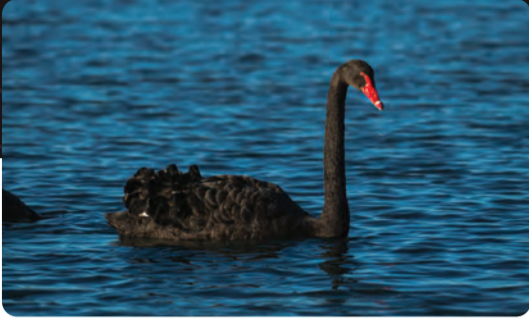


Council: Hold public meetings of elected licence holders to approve regulations and budgets, set policies and provide governance for the Fish & Game system.

Coordination and planning: Provide research, planning and reporting; financial management and general coordination across Fish & Game New Zealand.

fishandgame.org.nz #ReWild

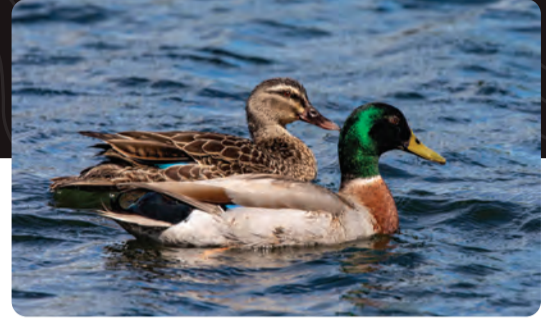
Species we manage



Black Swan Kakianau



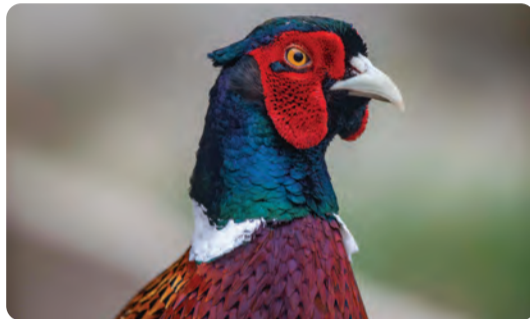
California Quail Koitareke



Mallard Rakiraki



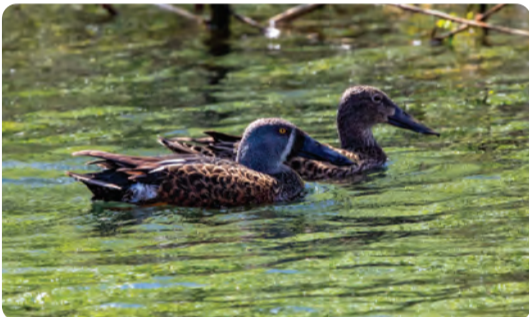
Paradise Shelduck Pūtakitaki



Pheasant Peihana



Pūkeko



Shoveler Kuruwhengi



Chukar



Grey Duck Pārera



Brown Trout



Rainbow Trout



Chinook Salmon



Sockeye Salmon



Brook Trout



Tiger Trout



Perch



Tench

IN THE MATTER OF A Hearing Pursuant to s 49 of the Conservation
Act 1987

AND

IN THE MATTER OF West Coast Stewardship Land Review

**LEGAL SUBMISSIONS ON BEHALF OF
WEST COAST FISH AND GAME COUNCIL**

Dated 13 September 2022

Dean van Mierlo, Barrister
dean@environmentalbarrister.co.nz
Ph 03 7311070
Instructing Solicitor R Bodle, Greymouth

MAY IT PLEASE THE PANEL

Introduction

1. These legal submissions are presented in support of the West Coast Fish and Game Council's¹ written submission on the Western South Island Stewardship Land review process and recommendations.²
2. The written submission is taken as read. These legal submissions highlight key legal issues arising, and how Fish and Game seeks that they be addressed.
3. One witness is being called by Fish and Game today in support of its submission. Mr Dean Kelly is the manager of West Coast Fish and Game.

Background

4. Fish and Game is the Crown's statutory manager of the sports fish and game resources on the Tai Poutini/West Coast, with legislative roles provided under the Wildlife Act 1953 and Conservation Act 1987.
5. Fish and Game is a Crown entity established pursuant to s 26P Conservation Act. The statutory functions of regional fish and game councils are to "*manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters, and, in particular*", in relation to planning, to "*represent the interests and aspirations of anglers and hunters in the statutory planning process*"; and "*to advocate the interests of the Council, including its interests in habitats*".³
6. Fish and Game holds several concerns with the process and recommendations regarding review of West Coast stewardship land.
7. The New Zealand Fish and Game Council provided a written submission⁴ to the Department of Conservation on the proposed review of stewardship lands nationally, when the architecture of the stewardship land review process was being designed. Points raised in the New Zealand Fish and Game Council's submission included;

¹ Hereafter Fish and Game.

² Dated 25 July 2022.

³ Section 26Q Conservation Act.

⁴ Dated 17 March 2022.

7.1 That Fish and Game sought “to engage directly with the panel considering reclassification at the earliest available opportunity so that the recreational and environmental values that we represent can be factored into any assessment of the land that would then be consulted upon”.

7.2 “That the reclassification process must serve the public, including through ensuring that public access and recreational opportunities are protected as core conservation values”

7.3 “That Fish & Game, as the statutory manager of a public resource, is given the opportunity to engage with the panels at the earliest available opportunity” and

7.4 “Where land is disposed of it must be done subject to the creation of public access reserves, easements or corridors to ensure there is no loss of public access as a result of the disposal”.

8. It is concerning to Fish and Game that these matters were not addressed in the design or implementation of the Western South Island stewardship land review, and so are now having to be addressed through the submission process.

Recognising and protecting sports fishing and gamebird hunting values

9. The Panels’ terms of reference provide that; “ ... the group can also consider recommendations for disposals, noting these must meet the test for disposal set out in the Conservation General Policy that no, or very low, conservation values are present.”⁵

10. Conservation is defined in the Conservation Act as meaning; (emphasis added)

“the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations”.

⁵ Terms of reference, para 16(e). Emphasis added.

11. Sports fish and game bird species are naturalised species in Aotearoa New Zealand. They are a natural resource.⁶ “*All kinds*” of plants and animals are a ‘natural resource’, as defined in the Conservation Act.

12. Specifically in this context, conservation includes providing for the recreational enjoyment of natural resources (such as land, sports fish, or gamebird species) by the public. Accordingly, the recreational use and enjoyment of stewardship land by anglers and hunters is a conservation value.

13. Any recommendation for a disposal of stewardship land must meet the test, that there is no, or very low, recreational use and enjoyment of that stewardship land by hunters and anglers. If that test is not met, then the stewardship land concerned cannot be said to have low or very low conservation values.

14. In addition, it is submitted that even if recreational hunter or angler use is currently very low or even non-existent, the opportunity for future generations of hunters and anglers to use, enjoy and sustainably recreationally harvest sports fish or gamebirds from that stewardship land must still be safeguarded.

15. As the Crown’s statutory manager of the sports fish and game resource, Fish and Game are concerned that it has had no earlier opportunity to provide input and advice regarding angler and hunter recreational use of parcels of land recommended for disposal. It is Fish and Game’s view that conservation values associated with angler and hunter recreational use of stewardship land have not been taken into proper consideration in relation to many notified recommendations.

16. By way of illustration, it is noted that a large portion of the game species populations under Fish and Game management reside on public conservation land. Fish and Game has a responsibility to manage these populations, including with regard to the impact of these species on other landowners.

⁶ The term “natural resources is defined in s 2 of the Conservation Act to mean, inter alia, “plants and animals of all kinds and the air, water and soil in or on which any plant or animal lives or may live ...”

17. Hunting for indigenous gamebirds in National Parks on the West Coast is prohibited through policy 3.6.4.15(3) of the West Coast Conservation Management Strategy. This can result in 'safe havens' of gamebird populations such as Paradise shelduck and Pukeko that periodically cause damage through overpopulation and intense grazing of nearby farmland.

18. On other land statuses, such as scenic reserves, Departmental practices vary with regards to the authorization of gamebird hunting, as will be described in the evidence of Mr Kelly.

19. Fish and Game invites the Department of Conservation to engage with it, as the Crown's statutory manager of the sports fish and game resource, to ensure that the conservation values that relate to sports fish and game recreational use, and sustainable harvest of game bird species, and access across these land parcels can be fully understood, and taken into account in any disposal or reclassification decisions.

20. Informed decisions need to be made on a case-by-case basis about angler and hunter access and use of the subject stewardship land blocks. In the first instance stewardship land with recreational sports fishing or gamebird hunting values should be retained as public conservation land to allow for these existing uses and species management as well as providing access corridors and floodplain management.

21. Decisions recommending disposal may necessitate use of roading exclusions, covenants or easements, as well as marginal strips, to safeguard recreational access options for future generations.

The Way Forward;

22. Fish and Game seeks that the Department engage meaningfully with it, as the Crown's statutory manager of the Fish and Game resource located on or adjacent to West Coast Stewardship lands.

23. As the Western South Island Stewardship Land Reclassification: Hearing Guidance expressly notes, "*The DG's delegate may require or request*

*technical support before, during or after the hearing.*⁷ Fish and Game is available to provide that technical support in relation to sports fishing and gamebird hunting issues affecting stewardship land.

24. The Conservation Act supports this approach. The Director-General of Conservation has broad powers to gather information and carry out investigations and inventories under s 53 of the Conservation Act, which provides;

... the Director-General may—

- (a) prepare and carry out, or commission the carrying out of, surveys, investigations, and inventories:*
- (b) conduct or commission research or study:*
- (c) collect or commission the collection of information:*

25. Accordingly, Fish & Game seeks the following decisions from the Director-General of Conservation;

25.1 That officials are instructed to work collaboratively with Fish and Game to identify all recreational sport fishing and gamebird hunting values on land currently held as stewardship land;

25.2 That land which holds game bird hunting values, or provides access (physical or legal) to sports fishing opportunities, is not disposed of and is retained in public ownership; and

25.3 That where stewardship land holds game bird hunting values, or provides access to areas with those values, the public's ability to hunt gamebirds on that land is expressly provided for and protected in any recommended change to land status.

D van Mierlo
Counsel for West Coast Fish and Game Council

⁷ At 4.6, pg 6, emphasis added.

IN THE MATTER OF A Hearing Pursuant to s 49 of the
Conservation Act 1987

AND

IN THE MATTER OF West Coast Stewardship Land
Review

**STATEMENT OF EVIDENCE OF DEAN KELLY FOR WEST COAST FISH
AND GAME COUNCIL**

Dated 13 September 2022

Dean van Mierlo, Barrister
dean@environmentalbarrister.co.nz
Ph 03 7311070
Instructing Solicitor R Bodle, Greymouth

QUALIFICATIONS AND EXPERIENCE

1. My name is Dean Kelly.
2. I am the Manager of the West Coast Fish & Game Council (Fish and Game) and have held this position since 2010.
3. During the eight years previous to my appointment as Manager I was employed as a Fish & Game officer for Fish & Game. Prior to my employment with Fish & Game I had completed a Bachelor of Science majoring in Zoology at Otago University.
4. During my 20 years employment with Fish & Game I have been intimately involved in Gamebird and Sportsfish Management throughout the West Coast Region. In performing my roles over the last 20 years I have gained detailed knowledge of the access needs of gamebird hunters and anglers regarding West Coast Department of Conservation administered lands and the waterways, wetlands and gamebird foraging habitats they support or provide access to.

SCOPE OF FISH AND GAME SUBMISSION

5. Fish and Game's Submission has covered:
 - a. Proposed Stewardship Land disposals and their potential effect on access to sportsfishing and gamebird hunting areas.
 - b. Proposed Stewardship Land reclassification to new status and ensuring recreational sportsfishing and gamebird hunting conservation values are recognised and provided for.

SUMMARY OF EVIDENCE

6. The West Coast region is a very popular sports fishing and gamebird hunting destination for local, national and international tourist anglers and hunters. Due to habitat loss in neighbouring regions, it is becoming increasingly popular for neighbouring region hunters and anglers.
7. Recreational sportsfishing and gamebird hunting values are conservation values. Inappropriate assessment of those values will

impede current and future use of these recreational areas by local, national and international users.

8. Fish and Game would like to work with the Department on a case-by-case basis to provide input into the recreational, habitat and access values of the lands proposed for disposal or reclassification to ensure current and future use is recognised and provided for in the legislative and management framework for these lands, and to ensure the access they provide to the regions waterways and wetlands is protected.

BACKGROUND TO FISH AND GAME

9. Fish and Game is the statutory manager of sports fish and game in the region, constituted under Section 26Q of the Conservation Act 1987 to *“manage, maintain and enhance the sports fish and game bird resource in the recreational interests of anglers and hunters.”*
10. Fish and Game is governed by a Council elected from whole season licence holders to oversee management, set licence fees, set and enforce annual harvest regulations and administer licence sales.
11. Fish and Game receives no direct government support, being funded for its statutory purpose entirely by the sale of sports fishing and gamebird hunting licences.
12. The Conservation Act, under s26Q further states that it is a function of Fish and Game to;
 - (b) To maintain and improve the sportsfish and game resource, -
 - (i) By maintaining and improving access; and...
 - (e) *In relation to planning, -*
 - (i) *To represent the interests and aspirations of anglers and hunters in the statutory planning process; and*
 - (vii) *To advocate the interests of the council, including its interest in habitats.*
13. Fish and Game are submitting on this Stewardship Land Review to uphold our responsibilities under the Conservation Act to *“manage, maintain and enhance the sportsfish and game resource”*. Fish and

Game through this submission seeks to ensure the Department of Conservation upholds its responsibilities under 6(ab) of the Conservation Act to protect freshwater fisheries and freshwater fish habitats and to preserve and protect the Conservation Values (including recreational sportsfishing and gamebird hunting values) of Department administered lands.

ISSUES WITH THE CURRENT PROPOSALS:

Gamebird hunting

14. Fish and Game has a statutory mandate to sustainably manage populations of gamebirds whilst minimising the effect of gamebirds on other parties such as landowners, and airport authorities. Inappropriate reclassification of public lands can create 'safe havens' where hunters cannot sustainably harvest gamebirds and therefore control populations and reduce their impact on others.
15. Indigenous gamebirds such as Paradise Shelduck, Black Swan and Pukeko congregate in large numbers in certain habitats. Land classification such as National Parks and Scenic Reserves can preclude hunters harvesting these birds. Good examples in the West Coast Region are Lakes Wahapo and Pratt which are located in Westland National Park near Whataroa. Paradise Shelduck moult in flocks of up to 1000 birds in Autumn and then create issues in relation to landowners crops in the neighbouring valleys both pre and post moult. In these numbers the likelihood of bird strike by aircraft is also increased.
16. The Panels' recommendations include changing the status of stewardship land to that of the adjacent reserve. Where gamebird habitat may be involved, Fish and Game would like to work with the Department of Conservation (and National and Manawhenua Panels) to appropriately assess the gamebird and sportsfish values of these area. If these values are not correctly understood and assessed they are unlikely to be recognised in the legislative or management framework and reclassifications may preclude permission to hunt gamebirds. This is currently the case in a number of scenic reserves such as Lake Kaniere where DOC does not issue permission to licenced gamebird hunters.

17. A good example of where this review has correctly identified gamebird hunting as a value is the Kotuku wetland at Lake Brunner. The subsequent recommendation is to reclassify the stewardship land as Wildlife Management Area with Gamebird Hunting identified as a conservation value.
18. In other instances however, without any Fish and Game input into the conservation value assessment process, we do not consider that the gamebird values of these lands have been correctly identified in all cases.
19. Some Scenic Reserves proposed, such as for example the Shearers Swamp and Lake Arthur additions do not recognise gamebird hunting as a current or future recreational value, despite these areas holding good populations of gamebirds and current or future opportunities for hunters.

Sportsfish

20. Land disposal without appropriate provision for legal and physical access to and along river valleys has the potential to severely restrict access to the region's rivers. This has occurred in the lower Cascade in the past leaving anglers with no public access to the excellent fishery in the lower reaches. An example in these proposals is the recommendation to 'consider disposal of the pastoral component' of the Cook River flats where insufficient recognition and provisions for legal and physical access could result in decreased access to sportsfisheries.
21. This Cook River catchment, as an example, has excellent sportsfisheries. It also has gamebird hunting opportunities and has become a moulting site for Paradise Shelduck in the lower reaches. An existing 4wd track provides access to the lower reaches and the neighbouring Ohinetamatea River.
22. Fish and Game are unsure whether there will be further opportunity for input into these disposals being considered. If disposals occur without providing for certain and enduring access to the waterways, and neighbouring public lands, they could result in 'exclusive capture' of sportsfishing and gamebird hunting as has happened in the Cascade Valley.

Fish & Game seeks the following decisions from the Director-General of Conservation

23. That officials are instructed to work collaboratively with Fish and Game to identify all recreational sportsfishing and gamebird hunting values on land currently held as stewardship land;
24. That land which holds game bird hunting values, or provides access (physical or legal) to sportsfishing opportunities, is not disposed of and is retained in public ownership; and
25. That where stewardship land holds game bird hunting values, or provides access to areas with those values, the public's ability to hunt gamebirds on that land is expressly provided for and protected in any recommended change to land status.

Dean Kelly

17 March 2022

Submission on Stewardship Land in Aotearoa New Zealand

This written submission is provided to the Department of Conservation by Fish & Game New Zealand (referred to subsequently as **Fish and Game**), which is comprised of the 13 Fish and Game Councils.

Submitter Details

Submitter: Fish & Game New Zealand

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Introduction

1. Fish & Game New Zealand broadly supports the recommendations of the discussion document, subject to a number of caveats that will be set out through the body of this submission.
2. Fish & Game New Zealand is a collection of statutory bodies operating under the Conservation and Wildlife Acts, which manage New Zealand's sports fishery and game bird hunting on behalf of the crown. Accordingly, we have substantial interest in the reclassification of stewardship land, in particular preserving public access to these areas and ensuring that conservation values are enhanced or maintained through this process.
3. In particular, there is a significant amount of stewardship land in the areas managed by West Coast Fish and Game Council and Southland Fish and Game Council, however stewardship land exists in every Fish and Game region. As a result, and in particular to achieve a functional shortened notification and submission period, we would seek automatic notification of the regional Fish and Game Council in which the stewardship land is within and the New Zealand Fish and Game Council as the statutory managers of a public resource.
4. We would also seek to engage directly with the panel considering reclassification at the earliest available opportunity so that the recreational and environmental values that we represent can be factored into any assessment of the land that would then be consulted upon.
5. This submission will be structured to respond to each question in turn.

Key Recommendations

6. That the reclassification process must serve the public, including through ensuring that public access and recreational opportunities are protected as core conservation values.
7. That Fish & Game, as the statutory manager of a public resource, is given the opportunity to engage with the panels at the earliest available opportunity.

8. That the disposal of stewardship land is made subject to the points set out in Q's 16 & 19 to disincentivise disposal being done to generate revenue or as a political tool.
9. That when land is disposed of it is done subject to adequate public access protections being put in place to ensure there is no net loss of public access.

Submission

1. *Do you agree with the objectives listed above?*
 - a. Yes, subject to the additions noted below.
2. *Should any other objectives be included in this review?*
 - a. Yes. A fundamental objective of this review should be that the reclassification process serves the public. The definition of conservation under the Act is broad and includes intrinsic values, providing for appreciation and recreational enjoyment and safeguarding for future generations. These elements should be directly stated within the objectives to minimise the chance of them being lost within the reclassification process.
 - b. Doing so will allow for due consideration to be given to maintaining/enhancing public recreational opportunity and access. This is particularly important in considering the disposal of stewardship land as it is conceivable that a situation could arise where land has a perceived low or minimal conservation value but high recreational value or provides access to an area of high recreational value. This could be addressed by instituting a formal consultation with statutory bodies that manage recreational resources such as Fish & Game, the Game Animal Council and Walking Access Commission prior to disposing or reclassifying land.
3. *Do you agree with the description of the problem? If not, please provide reasons to support your answer.*
 - a. Yes.
4. *Do you think there are any additional factors that have contributed to stewardship land reclassification not being progressed on a large scale? If so, please describe them.*
 - a. -
5. *Do you think there are any other issues or impacts caused by the delay in reclassifying stewardship land on a large scale that have not been described here? If so, what are they and who/what do they affect?*
 - a. -

Improving consistency of public notification and submission process

6. *Please identify your preferred option. You may provide further analysis or comments to support your choice.*
 - a. Fish & Game support option 1.1.
 - b. However, we believe that in order to make a shortened timeframe feasible and equitable there is a need to very clearly and promptly communicate with mana whenua, stakeholders and members of the public in order to ensure that there is adequate representation of all views to the hearing panel.
 - c. From our own perspective we would seek that there is an automatic notification to the Fish and Game Council in whose region the stewardship land that is being considered sits.

- d. We would also seek to engage directly with the panel considering reclassification at the earliest available opportunity so that the recreational and environmental values that we represent can be factored into any assessment of the land that would then be consulted upon.
 - e. We do not support option 1.2 as we agree with the summation in the document around the benefits of hearings in providing engagement.
7. *Do you think 20 working days (1 month) is adequate to prepare a written submission? If not, what period would be adequate?*
- a. Yes, we believe this would be adequate provided there is sufficient and immediate communication with stakeholders and public.
8. *What role or function do you consider hearings currently play?*
- a. Hearings provide the opportunity for public and stakeholder feedback in a more substantial sense than written submissions, act to supplement written submissions and provide the opportunity for the panel to seek further comment on a particular point.
9. *Are there any further options you think DOC should consider that would meet the objectives set out above?*
- a. –
10. *Please identify your preferred option. You may provide further analysis or comments to support your choice.*
- a. In general, we found it difficult to respond to this section as there are very few specifics outlined. Given the proposed short timeframe we see the public notification and submissions process as critical and would seek specifics on how the national panels would carry this out prior to forming a view.
 - b. In the absence of these specifics we would defer to Option 2.2, the status quo, as DOC is resourced to undertake public notification and submissions across a range of different subjects.
11. *If the national panels carried out the public notification and submissions process, what impact do you think this would have on the reclassification or disposal process?*
- a. Minimal provided the specifics of their process were sufficient. However, as noted above there is minimal information as to how this would be undertaken or resourced.
12. *Are there any further options you think DOC should consider that would meet the objectives set out above?*
- a. We believe the notification and submission process, and how this would be resourced, should be specified.
13. *What particular expertise/experience do you consider the national panels bring to this process?*
- a. There is a probability of stronger local knowledge of the significance of the land to mana whenua and community and from an ecological standpoint with the national panels, given they have a defined geographic area, than the NZCA. Under the status quo local knowledge occurs through consultation and public submission, but does not necessarily rest with the final recommending body.

- b. Fish & Game do, however, strongly believe that the current requirement to consult with the New Zealand Fish and Game Council should be retained.
- c. Fish & Game further believe that the future composition of these panels should include representation from recreational users, who often have very strong affinities and connection with these lands.

14. *If the national panels were responsible for making recommendations to reclassify land to national parks, do you consider this would create any risks?*

- a. No

15. *Are there any further options you think DOC should consider that would meet the objectives set out above?*

- a. –

16. *Please identify your preferred option. You may provide further analysis or comments to support your choice.*

- a. Fish & Game support Option 4.1.
- b. This support is subject to the retention of the strict parameters around the types of public conservation land that can be disposed of.
- c. In general, we have reservations about the disposal of stewardship land and would seek for the following protections to be put in place:
 - i. For there to be clear direction on circumstances in which land can be disposed of (additional to the requirement for it to have low or no conservation value). As noted above, the definition of conservation is broader than the common interpretation of conservation and it is critical that the national panels consider the legislated definition, and from our perspective particularly the recreational enjoyment component of that definition, when assessing stewardship land for reclassification.
 - ii. A very high bar needs to be set for the disposal of stewardship land. Although NZ has a high proportion of public land by international standards much of it is hidden away in remote areas and is therefore not readily accessible. This means that the land available to the public is in reality quite limited. Public land is easy to sell but often difficult and expensive to acquire. Land that is disposed of will likely be lost for good to the public. This is particularly significant in light of the fact that one aspect of conservation, defined by the act, is to safeguard options for future generations. In most cases, disposing of public land will remove options, rather than safeguarding them.
 - iii. When disposing of land, preference should be given to transferring it to alternative forms of public ownership. For example, gifting it to local authorities rather than sale on the open market.
 - iv. Thought needs to be given to the activity the proposed purchaser intends to undertake on the land, as this may be inconsistent with conservation values on adjacent land (i.e. forestry development reducing catchment water yield, agricultural intensification adding to cumulative nutrient accumulation in a catchment). Specifically, we have also noticed that there has been a tendency on the West Coast of New Zealand for disposed stewardship land adjacent to rivers to be subject to significant stop-bank work or other activities that constrain river channels, to the detriment of the health of the river. Where possible stewardship land should only be disposed of where low impact activities are proposed for the land.

17. *Are there any alternative options that have not been discussed here? Please provide analysis or comments to explain your answer.*
- a. –
18. *Do you think there are any other risks or impacts associated with declaring all section 62 land to be held for a conservation purpose via a legislative change that have not been identified here?*
- a. No, provided there is sufficient safeguards around the disposal subsequent to the declaration that held is held for a conservation purpose we do not see any further risks.
19. *Please identify your preferred option. You may provide further analysis or comments to support your choice.*
- a. Fish & Game support option 5.1, however we wish to ensure that there is adequate protection in place at a legislative level to prevent the disposal of stewardship land being seen as a revenue source or political in the future. Accordingly, we support 5.1 on the following provisos:
 - i. Funds received from the disposal of stewardship land must be held for the purpose of purchasing additional land to add to the conservation estate or for other mechanisms to increase public access to the conservation estate.
 - ii. Mechanisms must be put in place to disincentivise the disposal of public land (through sale or other disposal mechanisms such as via Treaty settlements) such as:
 1. Preference being given to its transfer to other forms of public ownership.
 2. Ensuring disposed land is not used for activities inconsistent with conservation values.
 3. Ring-fencing received funds for purchasing land to add to conservation estate or public access easements so as to preclude disposal of stewardship land being a revenue source.
 - iii. Where land is disposed of it must be done subject to the creation of public access reserves, easements or corridors to ensure there is no loss of public access as a result of the disposal.
20. *What are the risks or impacts associated with allowing the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC that have not been identified here?*
- a. We see the primary risk of Option 5.1 as having the potential to incentivise the disposal of stewardship land, resulting in a loss of public land and access. However, we believe this can be managed via the mechanisms outlined above.
21. *Are there any further options you think DOC should consider that would meet the objectives set out above?*
- a. –
22. *Please identify your preferred option. You may provide further analysis or comments to support your choice.*
- a. Fish & Game do not support either of the two outlined options. See Q's 23-25 for further details.

23. *If a concession is inconsistent with a new land classification or on land that has been recommended for disposal, should it be allowed to continue? Please explain your answer.*
- a. No. Where a concession is inconsistent with a new land classification they should not be allowed to continue as conservation values should take precedence over commercial activities.
 - b. This should be clarified via amendment to the legislation that existing concessions on stewardship land will continue under agreed terms unless land is reclassified and said concession is inconsistent with the new land classification.
 - c. However, if this was not feasible, we would also support there being a set review time period (say three years) post reclassification for existing concessions to be reassessed.
24. *Are there any other risks or impacts associated with allowing inconsistent concessions to continue?*
- a. As outlined above, it is critical that conservation values (including public access and recreational opportunities) take precedence over commercial activities.
25. *Are there any further options you think DOC should consider that would meet the objectives set out above?*
- a. As set out above, Fish & Game support an amended option 6.2 that clarifies via legislation that existing concessions on stewardship land will continue under agreed terms unless land is reclassified, and the concessions is inconsistent with the new land classification. At such point the concession's terms should be reviewed.
 - b. This will enable national panels to continue with the reclassification of stewardship land, whilst providing some security to commercial operators that there is an intention for their concession to continue.
26. *Are there any other non-regulatory options to help streamline the process for reclassifying stewardship land that we should consider? Please explain your answer.*
- a. -
27. *Are there any additional evaluation or monitoring measures that you think should be implemented? Please explain your answer.*
- a. Allowing the Statutory Land Management team to consider concessions on reclassified land excludes local input from regional DOC offices. This has led to unmonitored and inappropriate concessions for grazing leases in the past. For example, a lease on the upper Mangatutu on conservation land was granted to an intensive dairy farm. The river has lost 25% of its water clarity since the conversion. There should be an element of local or area office oversight included in the reclassification structure/submission process. The evaluation of the process should be based on improvements in conservation and recreational values not merely on the speed of the process.



Responses due by 5pm 28 February 2025

Submission to the MPI

**Regarding Government Partnering with Private Sector to Plant Trees on
Low Value Crown Land**

Email to: RFI@mpi.govt.nz

Contact Details

Helen Brosnan Senior Policy Advisor

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P: 021486034

on behalf of

Corina Jordan CEO

New Zealand Fish and Game Council

A handwritten signature in black ink, appearing to be 'C Jordan', is shown on a light background.

About Fish and Game

Statutory managers of freshwater sports fish, game birds and their habitats.

New Zealand Council

Level 1, Unit 2, 166 Featherston St, Wellington 6011. P.O. Box 25-055, Wellington 6146, New Zealand.

Telephone (04) 499 4767 Email nzcouncil@fishandgame.org.nz www.fishandgame.org.nz

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 game¹.

1.3 Our vision, purpose and values are illustrated below:

OUR VISION 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.	OUR PURPOSE 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.	OUR VALUES TRUST INCLUSION CONNECTION SERVICE
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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 processes to ensure that hunters' and anglers' values are recognised and provided for.

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.

- 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.

**Partnering to Plant Trees on Crown Owned Land:
Request for Information:**

The Government wants to explore partnership opportunities to afforest (plant native or exotic trees) or promote native forest regeneration on Crown-owned land (excluding National Parks) that has low farming value and low conservation value.

This will:

- *contribute to climate change targets*
- *spur economic growth through a thriving forestry and wood processing sector*
- *improve native biodiversity and water quality.*

3.1 Fish and Game submitted to the Crown Pastoral Land Reform Act: Proposed Regulations and Standards in August 2022. We note that much of this submission is relevant to this submission and therefore we attach it for your reference in attachment 2.

3.2 The Following submission summarises our views on the proposed RFI and we will focus mainly on issues relating to freshwater health and access for our licence holders which are key issues for our licence holders. There are appropriate locations for production forestry, and inappropriate locations (eg tussock, alpine and tundra environments). Fish and Game (F&G) are not fundamentally opposed to conversion to commercial forestry however we urge you to consider where this would be appropriate. F&G have a preference where afforestation is being considered, for continuous cover forestry as set out in the

National Environmental Standard for Commercial Forestry (NES-CF) or the planting of indigenous forestry to be prioritised.

Fish & Game proposes that the risk of wilding pines, and avoidance of planting exotic plantation forestry on Public Conservation Land (PCL) near tussock, alpine and tundra environments, should be considered.

3.3 The Importance of Preserving the Top of the Catchment

In many areas, the only remaining areas of good water quality and quantity is located in the headwater section of the catchment which is often held in public conservation land. Generally speaking the further down a river you go, the more modified the freshwater environment becomes. Whole scale land use conversion at the top of the catchment to production exotic forestry could increase, at times of harvest, the sedimentation of water in a water body. This can negatively impact on the species that we manage. With climate change the upland sections of the catchment will be particularly important to our species as refugia, as lower sections become warmer, and hydrological flows potentially reduced.

3.4 Afforestation of Crown Owned Land Proposed in the Second Emissions Reduction Plan

In principle, F&G support native afforestation in appropriate locations on crown owned land to reduce emissions, particularly where there are benefits to freshwater health and/or biodiversity.

3.5 Reason and Goals of Afforestation

Where land has been “taken back” from farming leases, the reasoning for this was to prioritise biodiversity and freshwater values and this should still be adhered to. Achieving this would generally prioritise the non-commercial

establishment of native species, especially in locations in close proximity to wetlands, streams, lakes and rivers.

In cases where conversion to exotic production forestry is being considered, applicants should be required to provide biodiversity and freshwater health benefits.

Biodiversity examples include: kiwi programmes, habitat for NZ falcons, trapping programmes, covenanting pockets of native bush, native planting margins, upland game hunting opportunities in exotic forestry.

Freshwater health benefits include: effect of shading for emerging species, interception of nutrients, planting to create good riparian management, 20m native planting setback from waterbody.

3.6 Game Bird and Angling Access to Public Owned Land

F&G would like to see the ongoing maintenance and improvement of existing public access to public conservation land. If land use changes to forestry, additional public access for game bird and angling would need to be created that specifically provide for this form of recreation. This means that we would like to see access easements to wetlands and upland game habitat for game bird hunting, as well as access easements along rivers and streams with salmonid fishing values. This would be the case if the land was owned by overseas companies via the Overseas Investment Act requirements anyway so the provision of legal access in this manner is a reasonable request. Access easements or covenants need to also specifically provide for the carrying and use of firearms for game bird hunting and or the carrying and use of fishing equipment.

3.7 Native Planting Around Water Bodies and Retaining a 20m Set back

Existing legislation prevents exotic trees from being planted on most public conservation land. F&G has discussed this in the sections above. Where forestry conversion is being considered, the impacts on the landscape values, and freshwater health should be considered.

If exotic planting does occur, F&G recommend that appropriate native planting take place around water bodies on site, with at least a 20m native planting set back of non-harvestable planting adjacent to waterbodies.

We note that land with “low farming and conservation value” can still have high value to our licence holders for recreation.

3.8 Potential Changes in Water Quality and water quantity from Exotic Tree Harvest Practices

F&G are concerned about the potential increased sediment load during harvesting and increased erosion associated with the harvest of plantation forestry on erosion prone land. Sports fish do not thrive in sediment laden rivers, and sedimentation of spawning streams is particularly problematic for reproduction and recruitment. Therefore, the aforementioned 20m setback in section 3.7 would provide a good starting point for reducing sediment run off.

Wholesale changes in land uses can result in changes to hydrological flow regimes in freshwater. Reduced water yield in catchments can reduce downstream water availability and assimilative capacity. This can impact freshwater health and freshwater species including salmonid populations and fishery values. Sports fish and indigenous species are negatively impacted by dry

stream beds, increased water temperature and reduced macro invertebrate production. These potential impacts should be considered and suitable management practices put in place to minimise the adverse effects from conversion to plantation forestry and harvest.

We note that the NES-CF provides as a permitted activity for vehicle crossings in the wetted riverbed (up to 20 axle movements per day), for instream structures and double culverts. These activities can be detrimental to the species that we manage, especially during spawning times of the year which generally occur in winter, and as such Fish & Game seek the exclusion of instream works including river crossings during spawning periods, associated with changes in land use and potential harvest activities.

3.9 What does “Low Forestry and Conservation Values” mean?

It is not clear what low forestry and conservation values mean. These values can change over time. Criteria defining this concept has not been included in the consultation document and the map of applicable land is too coarse to illustrate the land that you look to apply this to. We repeat from earlier in our submission that tussock, alpine and tundra habitats are part of the mountains to sea environment that our species live in. We are also want to preserve and enhance stream, river, lake, estuary (salmon) and wetland habits where our species are most commonly found.

3.10 Carbon Storage Maximisation

Pine trees sequester carbon quickly, however much of this is released back into the atmosphere when the trees are harvested and processed every 25-30 years. Therefore to maximise carbon gains, native tree planting, continuous cover forestry , or/and long lived species should be considered.

3.11 Crown Owned Land Exemption

Crown owned land should not be exempt from restrictions on ETS registrations on land use class 6. Much of the agricultural leases were taken back with the view of biodiversity and water quality gains and therefore planting this land in exotics will not necessarily achieve this purpose. Your criteria will still need to comply with the zones in the NES-CF or a controlled activity resource consent will be needed.

3.12 Exchange and Disposal Conservation Law Reform

F&G are also submitting to DOC's Conservation Law reform process closing on 28th February 2025. We submit that exchange and disposal was intended for minor boundary adjustments when the Conservation Act was written. This level of protection still applies today. However, if radical change from the status quo is planned, we have recommended a number of additional criteria for consideration of exchanges and disposals to ensure that land with conservation values (including recreational values associated with game bird and fishing) is retained.

Conclusion

- 4.1 NZ Fish and Game Council is prepared to work collaboratively with the Government. We are mindful that to be sustainable, development needs to be carried out within environmental limits. F&G urges you to look at the resultant catchment changes with any proposed land use change. Where forestry is considered appropriate, preference should be given to native planting or continuous cover over exotic planting to maximise carbon gains and minimise sediment runoff. Furthermore, with any exotic forestry planting a 20m native planting setback to waterbodies should be provided. Of course this is not practical for small streams, which best left planted with native vegetation for optimal water quality outcomes.
- 4.2 Our second request is that we ask you to continue to provide public access to publicly owned land. This access must provide for the use and include allowance for firearms where game bird hunting values exist.
- 4.2 We thank you for your consideration of this submission.
Fish and Game would happily meet with you to discuss any questions that you have.

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

Attachment 2 – August 2022 Fish and Game Submission to the ‘proposed new regulations and standards to support the implementation of the Crown Pastoral Land Act Reform 2022’.

Attachment 3 – About Fish and Game poster

Attachment 4 – The Species that we Manage

Attachment 1 - 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.

Submission form

Crown Pastoral Land Reform Act: Proposed regulations and standards

Once you have completed this form, email it to CPLC@linz.govt.nz

Alternatively, you can post your submission to: Crown Pastoral Land Consultation, Land Information New Zealand, PO Box 5501, Wellington 6145, New Zealand.

Submissions must be received no later than 5pm Friday 19 August 2022.

Anyone may make a submission, either as an individual or on behalf of an organisation. Please ensure all sections of this form are completed. You may either use this form or prepare your own but if preparing your own please use the same headings as used in this form.

Submitter details

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Phone number:	021 896 609
Address:	Level 2, Dominion Building, 78 Victoria Street, Wellington 6011

Official Information Act 1982

All submissions are subject to the Official Information Act and can be released (along with personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. LINZ will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

Submission

Please refer to the following pages for the detailed submission from Fish and Game New Zealand.



19 August 2022

Submission on the 'proposed new regulations and standards to support the implementation of the Crown Pastoral Land Act Reform 2022'

This feedback is provided by Fish & Game New Zealand (referred to subsequently as **Fish and Game**), which is comprised of the 13 Fish and Game Councils.

Submitter Details

Contact person	Rebecca Reed	Angela Christensen
Position	Senior Environmental Advisor	Resource Officer
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Email address	rreed@fishandgame.org.nz	achristensen@fishandgame.org.nz
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Summary

1. Fish and Game welcomes the opportunity to comment by the Land Information New Zealand (LINZ) on the proposed new regulations and standards to support the implementation of the Crown Pastoral Land (CPL) Reform Act 2022.

2. Fish and Game supports:

- the overarching intent of the CPL regulation and standards to address public concern about the management of Crown pastoral land, including degradation of biodiversity and landscape values on current and former Crown pastoral land over time; and
- implementing an outcomes-based approach that considers adverse effects on inherent values (including cumulative effects) on Crown pastoral land
- additions and clarifications of terminology including indigenous vegetation, indigenous wetlands, wetlands and vegetation clearing as these have significant potential to involve land / landscapes of importance to Fish and Game, and our statutory responsibilities.
- Consideration of the need for ongoing monitoring of any adverse effects of activities on Crown land, as well as continued access to areas for recreational angling and hunting.

About Fish and Game

3. 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 13 separate Fish and Game Councils – 12 regional Councils and one national Council. Together, these organisations represent roughly 140,000 anglers and hunters.
4. The sports fish and game resource managed by Fish and Game is 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 These species are also recognised within the NZ Biodiversity Strategy – Te Mana o te Taiao as ‘valued introduced species’ with significant cultural, economic and recreational contributions within New Zealand.
5. Wetlands and their health play a key role in Fish and Game’s operations as the primary habitat for the majority of game birds and we have a statutory mandate to maintain and enhance this habitat. Nationally, Fish and Game manage a number of freshwater ecosystems as well as routinely operating restoration programmes to enhance the quantity and quality of these habitats including wetlands. These operations have a dual benefit, creating increased habitat for game birds and sports fish and accordingly increased opportunity for anglers and hunters as well as providing increased habitat for a number of critically endangered or at risk/declining indigenous species.

¹ Most New Zealanders refer to these species as ‘game birds’, distinguishing them from other types of 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.

6. Currently \$4 per game bird licence issued by Fish and Game goes to the Game Bird Habitat Trust, which oversees a grant programme for wetland restoration and construction – representing millions of dollars invested in freshwater habitat restoration activities to-date by Fish and Game. Since its inception in 1990 Fish and Game has been one of the strongest voices for freshwater in New Zealand.
7. 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 says' organisation. Using this system, the organisation funds public good research to ensure fisheries and game bird populations are managed sustainably; undertakes compliance with the licencing system and regulations; and contributes to public planning processes.
8. In relation to planning, the Councils share a similar function to advocate on behalf of anglers and hunters and to advocate in the Councils' interest, including their interest in habitat and access to land. Overwhelmingly, the advocacy sought by anglers, hunters and their elected Council representatives has been to seek environmental protection and restoration of degraded ecosystems, while preserving the ability of recreational access to these landscapes.
9. At the direction of its licence holders, Fish and Game has become one of the nation's best-known advocates for freshwater ecosystems. A detailed list of recent achievements led by Fish and Game is listed in the appendices.
10. To achieve this, Fish and Game staff includes ecology, planning and policy specialists. The local-facing structure of the organisation, combined with generally low turn-over rates and a focus on freshwater means that these staff are experts in freshwater policy and its implementation.
11. This submission has been developed using the combined expertise and experience of Fish and Game's environmental policy staff.

Detailed submission

Section 100R(1)(a)- Discretionary pastoral activity, Commercial recreation permits and Stock limitation exemption

Commercial recreation permits

It is not clear from the discussion document how public access will be recognised in this process of commercial recreational permit applications. For commercial activities, it appears that there is an incentive for the permit holder to have exclusive rights to the area, which could lead to the lessee of

the property denying discretionary access to other recreational users. This needs further clarification and elaboration on how the granting of permits will affect other users and the access to land.

Stock Limitation Exception

A description of the area affected by the activity, including the size and scale of effects as well as identifying any inherent values affected is required. Detailed mapping should be included to identify features such as waterbodies, critical source areas, fence lines, etc. The map should also indicate where stock will be located and at what intensity.

The mapping and description should include any indigenous vegetation assessments and onsite or neighbouring SNAs. If the property has not been surveyed, there should be a requirement to survey the property to fully inform the description of the area prior to permitting relating to stock.. This would allow for better consideration of the activity on the landscape and ecosystem scales and would help determine whether the proposal will contribute to achieving Part 4 outcomes.

It is noted that the proposed Chief Executive Standards at 7(1) includes criteria to determine if the inherent values likely to be affected by the proposed activity have been identified. The point above could be picked up there; however, the direction to seek this information contains the wording 'where relevant'. It is not clear how relevancy is determined in these cases. This is discussed again below.

Adverse Environmental Effects (AEE's)

It is advised that there should be included a description of how any adverse effects will be monitored and by whom, if consent is granted for the activity. Ongoing monitoring will be essential to determining if compliance is achieved and to enable actions if adverse environmental effects are being generated by an activity. Monitoring will also ensure success in the goal of minimising AEE's and improving environmental performance.

Proposed monitoring timeframes such as frequency should also be included with the monitoring proposal. Additionally, it is unclear what is being monitored and why. Monitoring without a clear process to address any unanticipated outcomes is a pointless exercise. Will thresholds be stipulated to indicate that if effects are greater than anticipated, a response mechanism will then be triggered? What is monitoring to achieve and what is the feedback loop mechanism in response to monitoring outcomes?

Further detail around what is to be monitored, why it is taking place and what it is to achieve to meet the Part 4 outcomes of the Act. Is strongly suggested.

Section 100R(1)(b)- Matters the Commissioner must take into account

Scale and extent of activity-

It is not clear if the example provided for 'scale' limits what can be considered. For instance, can the scale i.e., intensity of a farming operation be considered? Intensive beef farming in sensitive high-country areas can adversely impact on inherent values. The examples given for scale are related to structure size, not scale/intensity of an activity.

Cumulative effects-

This concept is supported and should be included but it is uncertain how this will be assessed given that the activities are applied for individually, particularly if individually, they are assessed as 'no more than minor' but overall, the cumulative effect of these may not meet Part 4.

Commissioner of Crown Land's Standard on Easements, Transfers and Subleases affecting Crown pastoral land

Section 100S(1)- Standards in relation to the administration of pastoral land and its inherent values, including monitoring the state of the land.

Within clause 6 Easement Applications, how can public access be considered here? Currently the consultation process reads as being only required to consult with Director-General under 60(6) Land Act. Consultation with the public is strongly supported to facilitate a comprehensive consultation process.

Section 100S(1)-Clause 10(2)(b)-

Clause 10(2) is for the purpose of determining whether any past request for public access over the land was unreasonably refused under 89(2A) of the Land Act. Subclause (b) directs that the Commissioner will seek from the Crown agency a summary of views from a number of parties, agencies and iwi. Fish and Game is not included in this list but could fall under subclause (b)(v)- Any other group the Commissioner has requested.

Fish and Game has a specific function under the Conservation Act to maintain and improve access. Fish and Game works on access issues across the country and each Fish and Game Region is intimately familiar with access, including receiving complaints from both licence holders and the general public about access issues. It is considered that Fish and Game holds relevant and helpful information about access including historical issues. Fish and Game requests that included in the list of parties under 10(2)(b), that a (vi) be included; the relevant Fish and Game Regional Council.

Chief Executive Crown Pastoral Land Standard

Section 100S(2)- standards in relation to the framework for determining applications for discretionary pastoral consents, commercial recreation permits, or stock limitation exemptions.

Clause 5(1)(c)- The ability for the Commissioner to consider the matters under (c) is helpful to determine whether the information is sufficient to enable assessment of the application. It is not clear how all of the information will be obtained as different entities/organisations hold this. For example, Fish and Game are the statutory managers of the sports fish and game resource but it is not clear how these values are considered as part of this process or what the avenue is for these important values to be considered.

Clause 7(1)- Identification of Inherent Values

The aspects included are supported; however, the inclusion of the term 'where relevant' in (1) is unclear. How is relevance determined? It is considered that all the information should be sought and if there is not a particular value associated with a site, this should be made known.

The discussion document states "This clause sets out the different types of information that the Commissioner must source and receive to ensure that inherent values likely to be affected by the proposed activity have been identified. In some cases, there will be no inherent values affected or only some types of inherent values, but the Commissioner will receive information to confirm this when considering an application under new sections 10 to 12." This gives a different interpretation as to what is required than the proposed drafting, which inserts the words 'where relevant'.

Suggested action: Amend to delete the relevance test and direct that information on all matters is collected.

Clause (8)- No more than minor adverse effects on inherent values

This clause sets out to determine how 'no more than minor' and 'more than minor' are assessed. This ties back to 100R(1)(b) and types of effects to be assessed. There is still the concern around incremental loss of inherent values (ie cumulative effects) where a discretionary consent is issued where activities may be considered 'no more than minor' but over time, the whole of these activities have adverse effects that degrade inherent values.

Clause (9)- Reasonable Alternatives

Fish and Game support this clause as it outlines the criteria to help determine what a 'reasonable alternative' to a proposed activity is. This helps provide clarity around appropriateness, in particular subclause (c).

Appendix

Advocacy and freshwater ecosystems protection achievements by Fish and Game.

Since 1991, when the RMA came into effect, Fish and Game has:

- I. protected the Hakatamea River from overallocation²;
- II. protected the Nevis River from damming (via an amendment to the Kawarau Water Conservation Order);
- III. set minimum flow on select rivers, and allocation limits and water quality standards on all rivers in Otago through environment court processes;
- IV. participated in the deemed permit process in Otago to restore ecosystems degraded by historic abstraction, including the Lindis High Court process, the Kyeburn Environment Court appeal and the Environment Court Plan Change 7 first instance hearing;
- V. secured enhancement requirements for regionally significant wetlands in Otago, including recognising game hunting as a reason for protection;
- VI. successfully sought an Environment Court declaration that Horizons Regional Council was not implementing the One Plan in a lawful manner by issuing multiple consents for intensive farming with nitrogen leaching figures significantly over those identified as necessary to achieve the Plan's water quality outcomes;
- VII. lead the evidence which provided for the protection of the Tukituki catchment and established nitrogen limits in the Tukituki waterways, and preventing the building of the proposed Ruataniwha Dam;
- VIII. secured recognition and provisions for the protection of salmon spawning sites in the Canterbury Land and Water Regional Plan;
- IX. secured a prohibition on damming the Hurunui River due to the presence of the outstanding trout fishery;
- X. increased the minimum flow in the Hurunui River based on salmon passage requirements;
- XI. worked with environmentally aligned parties to secure incontrovertible recognition that agricultural land use was a significant contributor to degraded water quality in Southland's rivers, lakes and estuaries;³

² *Infinity Investment Group Holdings Ltd v Canterbury Regional Council* [2017] NZEnvC 36.

³ <https://www.stuff.co.nz/southland-times/southland-top-stories/113363858/federated-farmers-admits-its-time-to-start-cleaning-up-southland-rivers>

- XII. maintained a hydrological periodicity for wetlands such as Pukepuke Lagoon, Lake Omanu and the eastern Lake Wairarapa shore wetlands – the latter under the Lake Wairarapa Water Conservation Order;
- XIII. successfully opposed a 35-year resource consent application, which was declined as a result,⁴ by Open Country Dairy to more than double the amount of wastewater it discharges year round into the degraded Wairoa River;
- XIV. secured 13 out of the total of 15 current Water Conservation Order's;
- XV. provided feedback / written submissions as an affected party to thousands of consents affecting freshwater habitat and ecosystems nationally;
- XVI. advocated for an active program to identify and remove fish passage barriers;
- XVII. instigated research to place limits on discharges which increase instream water temperature to assist with the health of trout and native fish species population; and
- XVIII. worked with flood protection management through the resource consent process to protect and preserve the geomorphological characteristics of rivers.

⁴ [Dairy company seeks to double its river discharge \(newsroom.co.nz\)](http://newsroom.co.nz)



What does Fish & Game do?

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

#ReWild



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.



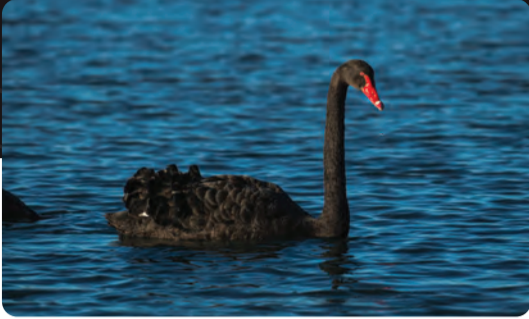
Council: Hold public meetings of elected licence holders to approve regulations and budgets, set policies and provide governance for the Fish & Game system.

Coordination and planning: Provide research, planning and reporting; financial management and general coordination across Fish & Game New Zealand.



fishandgame.org.nz #ReWild

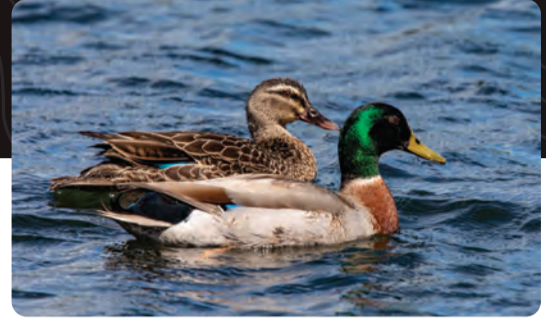
Species we manage



Black Swan Kakianau



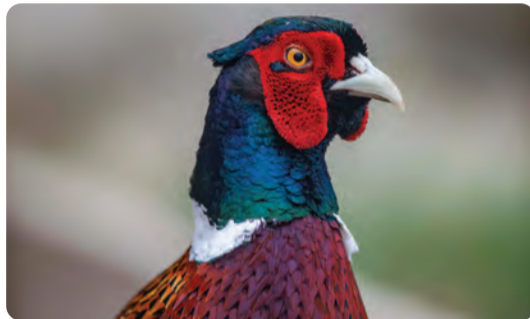
Californiaian Quail Koitareke



Mallard Rakiraki



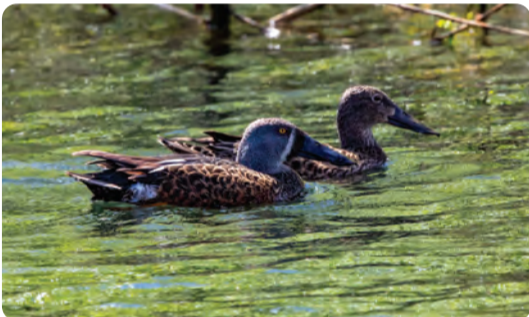
Paradise Shelduck Pūtakitaki



Pheasant Peihana



Pūkeko



Shoveler Kuruwhengi



Chukar



Grey Duck Pārera



Brown Trout



Rainbow Trout



Chinook Salmon



Sockeye Salmon



Brook Trout



Tiger Trout



Perch

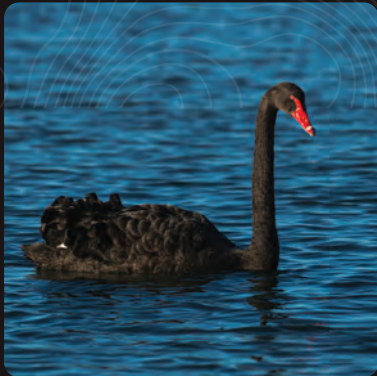


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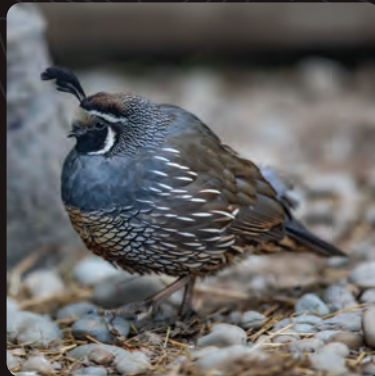
Species we manage



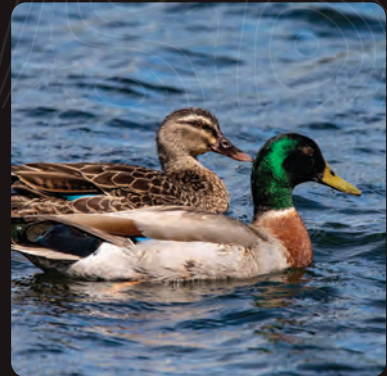
GAME BIRD SPECIES



Black Swan
Kakianau



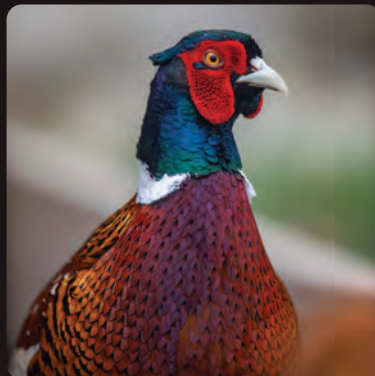
Californiaian Quail
Koitareke



Mallard
Rakiraki



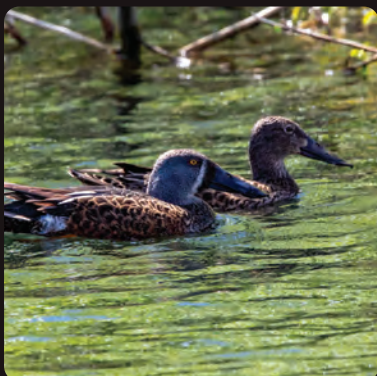
Paradise Shelduck
Pūtakitaki



Pheasant
Peihana



Pukeko



Shoveler
Kuruwhengi



Chukar



Grey Duck
Pāera

Species we manage



FISH SPECIES



Brown Trout



Rainbow Trout



Chinook Salmon



Sockeye Salmon



Brook Trout



Tiger Trout



Perch



Tench

Fish and Game Legislation that Provides for Advocacy and What We'd like to be Consulted on

Legislation	Topic / Issue	Formal / Informal
<p>Conservation Act NZCF&G <i>26C (1) (k) to perform such other sports fish and game functions as the Minister may require.</i> <i>26C (1)(g) to advocate generally and in any statutory planning process the interests of the New Zealand Fish and Game Council and, with its agreement, of any Fish and Game Council in the management of sports fish and game, and habitats</i> <i>26F (3) For the purposes of section 26C(1)(g), the New Zealand Fish and Game Council shall be entitled to appear before courts and tribunals in New Zealand and be heard on matters affecting or relating to the Council's functions.</i></p> <p>F&G Regions <i>26Q Functions of Fish and Game Councils</i> <i>(1) The functions of each Fish and Game Council shall be to manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters, and, in particular,—(see list)</i> <i>(1) (b)to maintain and improve the sports fish and game resource—</i> <i>(i)by maintaining and improving access; and</i> <i>(1) (e) in relation to planning,—</i> <i>(i)to represent the interests and aspirations of anglers and hunters in the statutory planning process;</i></p>	<p>Formal Consultation sought with DOC:</p> <ul style="list-style-type: none"> • Settlement Act Agreements involving angling and game bird habitat. • Concessions involving exclusive capture situations and game bird / angling habitat • Concessions involving water storage and hydroelectric power schemes • Concessions involving fish passage proposals in Trout habitat • Concessions involving waterbodies e.g. mining and quarrying operations in or near habitat of game birds and sports fish. • Concessions involving windfarms adjoining game bird habitat. • Future development of Area Plans and identification of sports fishing and game bird values and recreational opportunities relating to these values. • New biking tracks near game bird habitat and trout spawning streams. • We are asking DOC to consult us on any proposed exchanges and disposals and the Stewardship Land Review so that game bird hunting and angling values can be considered in these processes. • Policy and proposals involving RAMSAR sites that F&G are managers of or owns land adjoining. 	<p>Formal and Informal</p>

<p>26S (7) For the purposes of section 26Q(1), a Fish and Game Council shall be entitled to appear before courts and tribunals in New Zealand and be heard on matters affecting or relating to the Council's functions.</p>	<p>F&G consults with parties seeking special permissions and authorisations to remove sports fish.</p> <p>Ongoing operational and policy meetings with the minister and DOC officials.</p>	
<p>Wildlife Act <i>44D Functions of Board (NZ Game Bird Habitat Trust Board)</i> <i>The Board shall have the following functions:</i> <i>(a) primarily to improve New Zealand's game bird habitat and secondarily to improve the habitat of other wildlife:</i> <i>(b) to identify and evaluate areas of New Zealand worthy of protection, restoration, improvement, creation, or procurement primarily as game bird habitat and secondarily as habitat for other wildlife:</i> <i>(c) to negotiate, where appropriate, the protection, restoration, improvement, creation, or procurement of game bird habitat with landowners:</i> <i>(d) to receive submissions and applications from any person or organisation within New Zealand for the protection, restoration, improvement, creation, or procurement primarily of game bird habitat and secondarily of habitat for other wildlife, and to evaluate each submission or application for the purpose of determining whether or not to support it:</i> <i>(e) to promote and provide advice to prospective applicants on the protection, restoration, improvement, creation, or procurement of habitat suitable for game birds and associated wildlife.</i></p> <p><i>Section 44E Powers of Board</i></p>	<p>Fish and Game also advocate on game bird habitat issues as provided for in the Conservation Act.</p>	<p>Formal and informal</p>

<p><i>b) advocate the interests of the Board at any public forum or in any statutory planning process</i></p> <p><i>(5) The power conferred by subsection (2)(b) shall include the right to appear before courts and tribunals in New Zealand and be heard on matters affecting or relating to the Board's functions.</i></p>		
<p>RMA S95(e) Consent authority decides if person is affected person</p> <p>(1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).</p> <p>(2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—</p> <p>(a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and</p> <p>(b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and</p>	<p>Resource Consents See the qualifier in s95(e) relating to controlled and RD activities and check. Therefore, more likely to apply to Discretionary and Non-Complying activities.</p> <p>Fish and Game are interested in being an affected party on the following applications:</p> <ul style="list-style-type: none"> • Hydro Electric and water storage dams in rivers that contain trout habitat. • Water takes, particularly in catchments where overallocation exists in trout habitat. • Intensification of farming systems in degraded catchments that involve trout habitat. • Gravel extraction, particularly over winter in trout spawning waters • Form and function consents involving changes to river and vegetation on the banks that form habitat for trout (these are often controlled activities so check regional rules). • Diffuse and point source discharges to salmonid habitat • All of the above as they relate to wetlands that are game bird habitat. 	<p>Formal and informal pre application discussions</p>

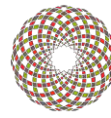
	<ul style="list-style-type: none"> • Structures in waterbodies that may impeded fish passage where there is trout habitat. • Subdivision that affects public access to waterbodies that provide habitat for trout and salmon 	
RMA Policy	Fish and Game will review all RMA policy both at regional and national level, National Environmental Standards, Regulations, relevant legislation amendments. We will focus on similar issues to those listed for consents above.	Ongoing meetings and formal processes
<p>Fast Track Act 2024 S53 Panel Invites Comments on Substantive Application S53 (2) (h) the owners of the land to which the substantive application relates and the land adjacent to that land; and (i)the occupiers of the land to which the substantive application relates and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and (k)relevant administering agencies; (m)if the approvals sought in the substantive application include— (ii)an approval described in section 42(4)(e) (concession), the persons listed in clause 5 of Schedule 6: (iii)an approval described in section 42(4)(g) (conservation covenant), the persons listed in clause 44 of Schedule 6: (iv)an approval described in section 42(4)(h) (wildlife approval), the persons listed in clause 4 of Schedule 7: (vi)an approval described in section 42(4)(l) or (m) (access arrangement), the persons listed in clause 5 of Schedule 11:</p>	<p>Fish and Game are interested in being consulted on the following applications particularly:</p> <ul style="list-style-type: none"> • Land that we own or manage • Solar Farms • Wind farms near game bird habitat • New hydroelectric power schemes involving trout habitat • New mines involving trout habitat • Water storage dams where this could enable intensification in already degraded catchments. • Irrigation schemes in already degraded and overallocated catchments that involve trout habitat. • Large scale subdivisions and infrastructure developments in proximity to fish and game bird habitat 	Formal

(3) Comments may be invited from any other person the panel considers appropriate.		
Reserves Act	Fish and Game are a requiring authority for some pieces of land. Therefore, consultation is required for issues relating to this land.	Formal
Overseas Investment Act	June 2024 Ministerial directive has removed new public access priority. We have asked for this benefit to New Zealand be re-introduced and that Fish and Game and Herenga a Nuku is consulted about opportunities for new access to waterbodies.	Informal
Biosecurity Act	Fish and Game recently submitted to proposed amendment as they relate to our license holders. MPI meetings to discuss policy and operational matters.	Informal
Arms Act	Fish and Game recently submitted to proposed amendments as they relate to our game bird licence holders. Firearms Community Advisory Forum to discuss topical issues around firearms.	Informal
Local Government Act	Fish and Game would like to be consulted on proposals to close Unformed Legal Road that could negatively impact on access to game bird hunting and angling access. In practice District Council's have a public notification process and doesn't have to formally notify Fish and Game of such proposals.	Informal



Braided rivers: The land the law forgot

Integrating legal, economic, social, and cultural factors into the well-established models of the topology of braided rivers, along with models of climatic uncertainty to better understand these unique landscape features.



Te Pūnaha Matatini

Complexity is at our heart

Eugenie Sage
Chair, Environment Select Committee
NZ Parliament
Wellington
en@parliament.govt.nz

4 February 2023

Subject: Natural and Built Environments Bill, clause 7 'Definitions'

Dear Eugenie and colleagues,

Thank you for the opportunity to submit on this bill.

The Land the Law Forgot is a group of scientists, lawyers, planners, policy experts, and engineers with shared interest in NZ's iconic braided rivers, with funding from Te Pūnaha Matatini, a national Centre of Research Excellence. Our scientific expertise spans river geomorphology, hydrology, natural hazards, environmental science, and ecology. We come from a range of organisations interested in braided rivers including:

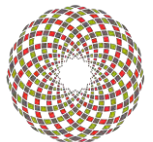
- University of Canterbury School of Earth and Environment
- Massey University
- University of Auckland
- NIWA
- Environment Canterbury
- Environmental NGOs

We came together to seek scientific consensus around braided rivers and their management. Many of our organisations will put in their own, broader, submissions on the NBEA. As such we do not speak for our respective organisations. This submission reflects our collective expertise on braided rivers.

In this submission, we describe a problem and identify the cause and solution as follows:

- 1) **Problem:** The continual and sustained constriction of braided rivers is making rivers less resilient, which causes problems – economically, agriculturally, culturally, and ecologically.
- 2) **Cause:** lack of a definition that works for braided rivers in the NBEA (and previous RMA). This is exacerbated by the Dewhirst decision in the Court of Appeal (2019).¹
- 3) **Solution:** change the definition in three ways:
 - a. Amend the Definitions of clause 7, to include a nuanced definition of 'braidplain';
 - b. Amend clause 38(1) by adding a new (g): 'Braidplains of braided rivers'.
 - c. Make aligned changes to SPA clauses 8 and 17 (to be reviewed in a separate but allied submission)

¹ *Canterbury Regional Council vs Dewhirst* [2019] NZ Court of Appeals 486



The problem of braided rivers' declining capacity to adjust -- Braided rivers are quintessentially New Zealand, yet visible from space. They are globally rare, yet locally abundant, with 163 in NZ.² They are as physically fragile as they are biologically diverse.

But they are losing their ability to adjust to environmental changes – weather, land use, and the like. In other words, braided rivers are losing their resilience.

Braided rivers are integral to Aotearoa New Zealand landscapes, especially, but not uniquely, in Waitaha Canterbury. They epitomise complexity and dynamism; yet they are fragile and sensitive to changes to flow, sediment supply, floodplain area, flood protection works, and encroaching vegetation. They are especially vulnerable to agricultural intensification and encroachment. The Canterbury Regional Council (ECan) reports that nearly 15,000 hectares undeveloped or forested land alongside lowland Canterbury braided rivers have been developed into intensive agriculture since 1990.³

Just as leopards are known for spots, braided rivers are known for dynamism. They move across, occupy, shape, and reshape large areas of New Zealand's landscape, especially on the South Island. They are characterised by multiple shifting channels known as braids, wide floodplains, and rapidly shifting bars and islands.⁴ Braids change course, shape, and extent with changes in sediment, hydrology, land use, vegetation, climate, and/or surrounding infrastructure.⁵ They move side to side, bifurcate then coalesce, and form islands or bars mid-stream.⁶

Active braids are often surrounded by abandoned dry braids, gravel bars, and islands (See Figure 1).⁷ These now abandoned braids are not always visible without remote sensing technology such as LiDAR, that can reveal that the past wet state is a reasonably predictable future state for a particular place (see Figure 2). The varying time since dry parts of the bed were last mobile results in a mosaic of differing habitats that support high biodiversity. The mosaic is maintained by the river continually adjusting.

² GH Wilson, *National distribution of braided rivers and the extent of vegetation colonization*, (2001) (Landcare Research, Report Number LC0001/068).

³ Environment Canterbury, *Land use change on the margins of lowland Canterbury braided rivers, 1990-2012* (2015) (Report Number R15/49).

Environment Canterbury, *Land use change on the margins of lowland Canterbury braided rivers, 2012-2019* (2021) (Report Number R21/05).

⁴ Peter Ashmore, "Morphology and Dynamics of Braided Rivers", (2013) 9(17) *Treat Geomorph* 289 at 289–312.

Hervé Piégay, Desmond Walling, Norbert Landon, Qiping He, Fred Liébault, Robert Petiot, "Contemporary changes in sediment yield in an alpine mountain basin due to afforestation", (2004) 55 *Catena* 183 at 183-212.

Jasper Candel, Maarten Kleinhans, Bart Makaske, and Jakob Wallinga, "Predicting river channel pattern based on stream power, bed material and bank strength", (2020) 45 *Prog Phys Geog: Earth & Enviro* 253 at 253-278.

⁵ GM Kondolf, Hervé Piégay, Norbert Landon "Channel response to increased and decreased bedload supply from land use change: Contrasts between two catchments" (2002) 45 *Geomorph* 35 at 35–51.

⁶ Peter Ashmore, "Morphology and Dynamics of Braided Rivers", (2013) 9(17) *Treat Geomorph* 289 at 289–312.

⁷ Peter Ashmore, "Morphology and Dynamics of Braided Rivers", (2013) 9(17) *Treat Geomorph* 289 at 289–312.

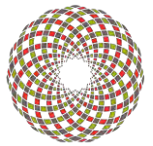


Figure 1 – Changing braidplain of the Waimakariri River, 1942 to 2020 (Source: The Conversation).

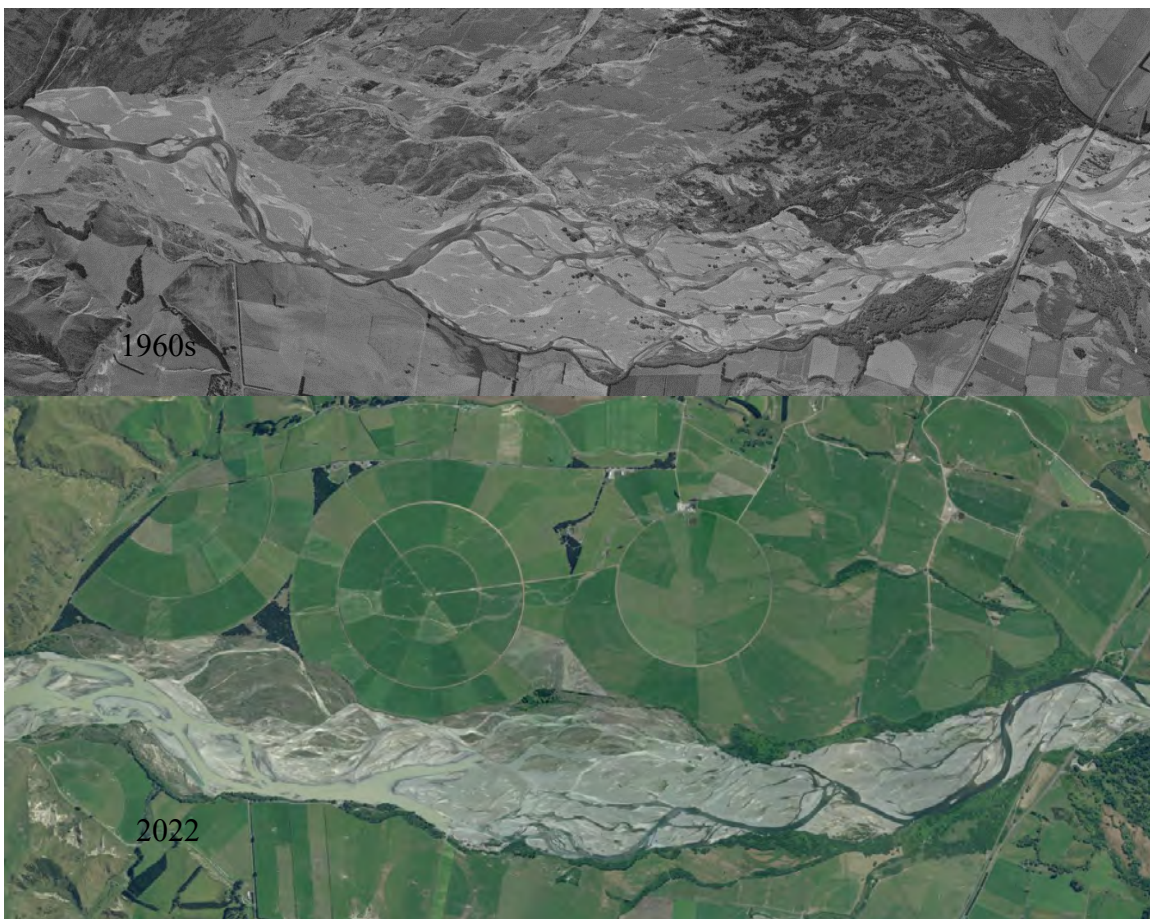
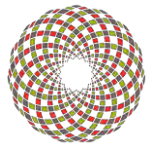


Figure 2 – Changing land use within the braidplain of the Waiau River, mid-1960s (top) and 2022 (bottom).



In order to form, abandon, and reform braids across wide ‘braidplains’, braided rivers require both large amounts of sediment coursing through their channels⁸ and room to move.⁹ The space and sediment requirements make braided rivers globally rare.¹⁰

Yet land use change is encroaching into the spaces of braided rivers, constricting their ability to adjust to ever-changing flows of water and sediment.¹¹ This is causing creeping, yet noticeable, declines in their capacity to adjust to all sorts of environmental change – weather, land use, and the like. This creeping encroachment is shown in Figures 1 and 2.

The declining capacity to adjust in braided rivers will have broad-reaching consequences if allowed to continue – in economic, ecological, cultural dimensions. It means our land systems are becoming less adaptive to climate change, meaning climate change will be more painful, and more expensive, to adapt to than if we start to address the problem of declining capacity to adjust now, through the NBEA.

More broadly, loss of capacity for braided rivers to adjust results in:

- Biodiversity loss, and habitat loss for threatened and endemic species¹²
- Reduced resilience and life-force of the river¹³
- Loss of the iconic natural character of braided rivers, for which NZ is globally famous
 - Noting that clause 5(a)(iii) states a desired ‘System Outcome’ of NBEA is to protect or restore the ‘natural character of ... rivers and their margins’)
 - Losing the physical form of such a prominent landscape feature induces ‘solastalgia, “the pain or distress caused by the loss of, or inability to derive, solace connected to the negatively perceived state of one’s home environment”¹⁴
- Reduced capacity for groundwater recharge¹⁵

⁸ Murray Hicks, Edwin Baynes, Richard Measures, Guglielmo Stecca, Jon Tunnicliffe, Heide Friedrich, (2020) “Morphodynamic research challenges for braided river environments: Lessons from the iconic case of New Zealand”, 46 *Earth Surf Proc & Land* 188 at 188–204.

⁹ Peter Ashmore, “Morphology and Dynamics of Braided Rivers”, (2013) 9(17) *Treat Geomorph* 289 at 289–312.

¹⁰ Charlie Mitchell, Alden Williams, “The Rewilding Project: The movement to revive our zombie rivers”, *The Press* (online edition, Christchurch, 25 June 2021 <interactives.stuff.co.nz/2021/06/rewilding-project-nz-braided-rivers/>).

¹¹ Peter Ashmore, “Morphology and Dynamics of Braided Rivers”, (2013) 9(17) *Treat Geomorph* 289 at 289–312.

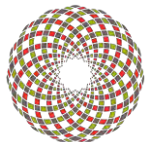
¹² <https://interactives.stuff.co.nz/the-long-read-podcast/2021/06/zombie-rivers-canterbury-floods-braided-rivers-farming-irrigation-stopbanks/>

¹³ Gray, D., Grove, P., Surman, M., & Keeling, C. (2017). Braided rivers: Natural characteristics, threats and approaches to more effective management (Environment Canterbury Technical Report R17/13; Issue R17/13, p. 18). Canterbury Regional Council.

¹⁴ Brierley, G. J., Hikuroa, D., Fuller, I. C., Tunnicliffe, J., Allen, K., Brasington, J., Friedrich, H., Hoyle, J., & Measures, R. (2022). Reanimating the strangled rivers of Aotearoa New Zealand. *WIREs Water*, e1624. <https://doi.org/10.1002/wat2.1624>

¹⁵ Albrecht G, Sartore G-M, Connor L, Higginbotham N, Freeman S, Kelly B, Stain H, Tonna A, Pollard G (2007) Solastalgia: The distress caused by environmental change. *Australasian Psychiatry* 15(Supplement):S95-98

¹⁶ Thomas Wohling, Moritz Gosses, Scott R. Wilson, and Peter Davidson. (2018) “Quantifying River-Groundwater Interactions of New Zealand’s Gravel-Bed Rivers: The Wairau Plain.” Vol. 56, No. 4—Groundwater—July-August 2018. pages 647–666



- Reduced adaptive capacity for coping with increasingly frequent extreme weather events and atmospheric rivers¹⁶
- Reduced capacity for flood control¹⁷
- Increased erosion risk¹⁸
- Economic cost of protecting communities from unsustainable system¹⁹

Reduced resilience of rivers in any of the above ecosystem services makes the nation's climate adaptation much more expensive at best, and impossible at worst. It is our proposal that the first step towards empowering climate adaptation and implementing the national Adaptation Plan²⁰ is to insert our proposed definition of braidplain into the Definitions clause of the NBEA. Without this, councils lack the authority to adapt to climatic changes, which will inevitably affect our braided river systems.

In terms that are slightly more stark, failing to define braidplain in the NBEA will:

- 1) Allow river constriction to continue, and
- 2) Create future disasters like we have seen in recent years (e.g. Rangitata, Ashburton Rivers).²¹

The cause -- Braided rivers are the land the law forgot. We ask the Environment Committee to rectify this, by including braidplain in the definitions of the NBEA in order to lay the groundwork for conversations (during the NPF formation) about how to manage braided rivers. We see this as the only way to start the process of managing braided rivers in a way that promotes climate resilience, instead of the current trajectory driven by the legislative definition of river 'bed' that is making our land and river systems ever more brittle.

We note with concern that the definition of river 'bed' in the NBEA echoes the RMA's definition, and does not work for braided rivers. Courts have struggled to construe braided rivers within the existing definition. This is because the legislative definition, and consequently the Courts, draw a fine line between 'flood' and 'fullest flow' whereby the former is larger than the latter.²²

But physically, neither flood nor fullest flow applies well to braided rivers. The terms, and the fine line between them, apply better to stable, single-channel

¹⁶ Gluckman, P., Bardsley, A., Cooper, B., Howard-Williams, C., Larned, S., Quinn, J., Hughey, K., & Wratt, D. (2017). New Zealand's fresh waters: Values, state, trends and human impacts (p. 120). Office of the Prime Minister's Chief Science Advisor.

¹⁷ Gluckman, P., Bardsley, A., Cooper, B., Howard-Williams, C., Larned, S., Quinn, J., Hughey, K., & Wratt, D. (2017). New Zealand's fresh waters: Values, state, trends and human impacts (p. 120). Office of the Prime Minister's Chief Science Advisor.

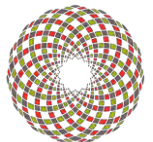
¹⁸ Piegay, H., Grant, G., Nakamura, F., & Trustrum, N. (2009). Braided River Management: from Assessment of River Behaviour to Improved Sustainable Development. In *Braided Rivers* (pp. 257–275). Blackwell Publishing Ltd. <https://doi.org/10.1002/9781444304374.ch12>

¹⁹ Brierley, G. J., Hikuroa, D., Fuller, I. C., Tunnicliffe, J., Allen, K., Brasington, J., Friedrich, H., Hoyle, J., & Measures, R. (2022). Reanimating the strangled rivers of Aotearoa New Zealand. *WIREs Water*, e1624. <https://doi.org/10.1002/wat2.1624>

²⁰ Ministry for the Environment. (2022). Aotearoa New Zealand's first national adaptation plan. Ministry for the Environment, Wellington Retrieved from <https://environment.govt.nz/assets/publications/climate-change/MFE-AoG-20664-GF-National-Adaptation-Plan-2022- WEB.pdf>

²¹ Davies, T. R., & McSaveney, M. J. (2006). Geomorphic constraints on the management of bedload-dominated rivers. *Journal of Hydrology New Zealand*, 45(2), 111–130.

²² *Canterbury Regional Council vs Dewhirst* [2019] NZ Court of Appeals 486



ivers, because flood and fullest flow rely on the presence of clear banks and exclude the presence of multiple channels, braidplains, and margins.²³

Continuing to rely on a single-channel river definition for river ‘bed’, even for NZ’s 163 braided rivers, quietly redefines braided river beds based on ‘fullest flow’ in a fixed location.²⁴ The two are vastly different, both geomorphologically²⁵ and legally²⁶.

Continuing to rely on the current definition of ‘bed’ dooms us to failure in achieving the goal of Te Mana o Te Wai NPS, of sustaining the ‘life-supporting capacity of freshwater’.²⁷

The solution = defining the ‘braidplain’ – The definition of river ‘bed’ does not, and cannot, work for braided rivers. To restore resilience to our braided rivers, we need to start by identifying and defining the ‘braidplain’.

For defining beds of other types of rivers, we support the submission from the Rivers Group. For braided rivers, our solution is three-fold:

1) Amend clause 7 Definitions, to include ‘Braidplain’

Braided rivers comprise both land and water, wet bits and dry bits, vegetation and bare patches, suspended sediment and vast stretches of gravel. Scientifically, they are complex flows of sediment and water. Like Schroedinger’s cat, they are neither land nor water, but both at once.

Braided rivers require a legislative definition at the national level that embraces their dynamism, complexity, and room to move: essentially their capacity to adjust, and therefore recognising their range of variability. Above all, to fulfil regional and national goals of protecting natural character of unique landscapes, the legislative definition must (1) recognise that braided rivers comprise both land and water and (2) be scientifically-informed.

The Land the Law Forgot group has found strong scientific consensus around a legislative solution that will stop the decline in braided river resilience, and start the journey towards halting the decline of, or even possibly restoring some of the resilience of, the rivers that define our landscapes.

The definition of river needs to change. Our proposed definition is a necessary pre-condition to fulfil one of the Purposes of the NBEA in clause 3, of upholding te Oranga o te Taiao, ‘the health of the natural environment, the essential

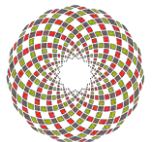
²³ Renate Vosloo, Franca Buelow, John Page, and Ann Brower. (in press) “Braided rivers: between land and water, between law and science.” *NZ Journal of Environmental Law*.

²⁴ Renate Vosloo, Franca Buelow, John Page, and Ann Brower. (in press) “Braided rivers: between land and water, between law and science.” *NZ Journal of Environmental Law*.

²⁵ Brierley, G. J., Hikuroa, D., Fuller, I. C., Tunnicliffe, J., Allen, K., Brasington, J., Friedrich, H., Hoyle, J., & Measures, R. (2022). Reanimating the strangled rivers of Aotearoa New Zealand. *WIREs Water*, e1624. <https://doi.org/10.1002/wat2.1624>

²⁶ Renate Vosloo, Franca Buelow, John Page, and Ann Brower. (in press) “Braided rivers: between land and water, between law and science.” *NZ Journal of Environmental Law*.

²⁷ <https://environment.govt.nz/acts-and-regulations/freshwater-implementation-guidance/te-mana-o-te-wai-implementation/#:~:text=Te%20Mana%20o%20te%20Wai%20means%20the%20first%20priority%20must,life%20Dsuporting%20capacity%20of%20freshwater.>



relationship between the health of the natural environment and its capacity to sustain life, the interconnectedness of all parts of the environment’.

Because braided rivers are land, water, sediment, and gravel all at once, the NBEA needs a definition of ‘Braidplain’. We propose this have 3 forms. We do not propose management implications of these 3 forms. Instead we acknowledge that conversations around policy and management implications, if any, of the braidplain take place in the establishment of the proposed National Planning Framework (NPF).

Regardless of policy, planning, and management implications, we need to define braidplain as follows to acknowledge the unique, vibrant, and dynamic landscapes of NZ.

Amend clause 7, Definitions:

Braidplain, takes 3 forms in which (a) is the largest and (c) is the smallest, in both space and time:

- a) Topographic braidplain means the area of land covered potentially, currently and historically by the active river surfaces within the current hydrological and geomorphic context in the absence of flood defences or invasive weeds²⁸*
- b) Historically active braidplain means the corridor within topographic braidplain that has been mobilised by active river processes and occupied by water or bare gravel as evidenced by written history (e.g. aerial photographs and historic maps). The historically active braidplain is made up of all previous known active braidplains.*
- c) Currently active braidplain means the corridor within the historic braidplain that is currently being occupied by water, bare gravel, or sparse vegetation²⁹ at any point in time, and being actively impacted by river processes of erosion and deposition.*

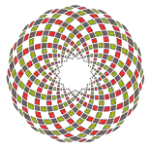
2) Amend clause 38(1) of NBEA by adding a new (g): ‘Braidplains of braided rivers’.

Amending clause 38 would mean that eventually limits and targets under clause 49(1) would need to be set, perhaps in conjunction with the rollout of the National Planning Framework. These targets should reinforce the significance of the issue.

By contrast, if we fail to define braidplain now in the NBEA, we will instead rely on the NPF to define braidplain *and* set limits and targets; this uses circular logic. Adding the definition acknowledges that braided rivers are different, and allows

²⁸ D. Gray. (2018) ‘Natural character assessment guidelines for braided rivers’. (Environment Canterbury Technical Report) <https://www.ecan.govt.nz/document/download?uri=343494>

²⁹ Peter F. Williams and Brian R. Rust. (1969) “The sedimentology of a braided river.” *Journal of Sedimentary Research*. 39 (2): 649–679.



us to start the conversation on identifying values (economic, ecological, cultural, and physical) in braided rivers and how we want to manage the values. So the proper solution to the problem is to define braidplain now, and have the conversation around management limits and targets with the NPF.

The Land the Law Forgot group would be happy to contribute to setting those limits and targets when the time comes.

3) Aligned changes to Spatial Planning Bill clauses 8, 17. See aligned submission.

In conclusion, it is often said we cannot manage what we cannot measure.³⁰ To that we add, we cannot manage what we have not defined in law.

Therefore, we see inserting a definition of braidplain into Clause 7 as a necessary first step towards solving the problem of the loss of adaptive capacity in our braided rivers. Flooding is likely to be a large part of Aotearoa's experience of climate change. Braided rivers are likely to be a large part of that increased flood risk, with predicted larger floods inundating larger areas of the historically active braidplain as currently active braidplains expand to accommodate more frequent and larger floods. Adding our proposed scientifically-informed braidplain definition to the NBEA will give us the necessary tools to start addressing climate resilience around our dynamic and iconic rivers.

Thank you for the opportunity to contribute to the discussion. We wish to speak to our submission. Please direct correspondence to ann.brower@canterbury.ac.nz.

Sincerely,

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Alice Sai Louie, PhD candidate in groundwater hydrology, U Canterbury
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Ian Fuller, professor of physical geography, Massey University

Gary Brierly, professor of physical geography, University of Auckland

Dr Jo Hoyle, fluvial geomorphologist, NIWA

Rasmus Gabrielsson, Chief Executive, North Canterbury Fish & Game Council
Jay Graybill, Chief Executive, Central South Island Fish & Game Council

Dr Philip Grove, terrestrial ecologist
Dr Duncan Gray, freshwater ecologist

³⁰ Myles, F., Duncan, R., & Brower, A. (2016). Measuring to manage: Reconfiguring people–water relations through water measurement standards and technologies in New Zealand. *Environment and Planning C: Government and Policy*, 34(3), 546–558.