



27 June 2024

Submission to the Primary Production (Select) Committee made by New Zealand Fish and Game Council with regard to the Resource Management (Freshwater and Other Matters) Amendment Bill

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on behalf of

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

New Zealand Council

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

- 1.4 Fish and Game is entirely funded by licence holder fees and private contributions, meaning the delegated function of managing the species for the public good is funded entirely by the users. It is a democratic '*user pays, user say's*' organisation. Using this system, Fish and Game funds public good research to ensure fisheries and game populations are managed sustainably; undertakes compliance with the licencing system; and contributes to public planning 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.
- 1.6 In January this year PCE released a think piece entitled “Rethinking the RMA: the need for enduring reform”. This questioned whether the RMA had failed, commented on the role of local government, argued that the environment needs to be at the centre of any reform and promoted a cross-party approach.

More recently they released “A way forward: land use change in Aotearoa”

Three key points from this report are:

- *In some cases, land use change will not be economically viable for landowners to undertake. In these cases, landowners should ideally be compensated for the ecosystem services that their land use provides (just as they should pay the true cost of the environmental impacts of their existing uses).*
- *Environmental information in New Zealand is often not fit for purpose. Environmental data that are monitored are at best fragmented – lacking geographical coverage or consistent time series – and at worst, inaccessible. This means data and information are only available behind a prohibitive paywall, are presented in a complex format that cannot easily be used, or simply do not exist.*

- *A third of catchments (34.8%) have high excess contaminants (nitrogen, sediment, phosphorus) and would need land use change to achieve their environmental bottom lines. Of these catchments, change is urgently needed in parts of the Manawatū and Whangaehu catchments managed by Horizons Regional Council, parts of Waituna and Otapiri catchments managed by Environment Southland and Otapiri catchment managed by Otago Regional Council.*
- *Funding of New Zealand's environmental monitoring system is inexcusably low and has been static for many years. This has resulted in cuts and atrophy of the databases that do exist.*

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.

Resource Management (Freshwater and Other Matters Amendment) Bill

3.1 This submission focuses on the parts of the Bill that relate to the duties and functions of Fish and Game councils. We focus mostly on the hierarchy of obligations, stock exclusion, intensive winter grazing and development of national direction.

Water Conservation Orders

3.2 Water Conservation Orders recognize outstanding recreational fishery values, or/and gamebird hunting values and therefore should be excluded from the scope of any new legislation. The freshwater resources that Water Conservation Orders seek to protect are akin to National Parks, and as such should be excluded from new national direction.

Hierarchy of Obligations CI 22, 23, 26

3.4 Fish and Game are concerned that there will be a gap between approval of this bill and notification of proposed plans containing the idea of the hierarchy of obligations. This gap will provide for consents to be lodged and potentially approved in overallocated catchments which will result in further degradation of freshwater health and overallocation.

3.5 The information provided by MFE² in the Regulatory Impact Statement does not make a convincing case that this change is warranted. Officials were aware of only two resource consent applications that had been declined relating to the hierarchy of obligations. A groundwater take application in Hawke's Bay was refused, in part because it did not sufficiently meet the hierarchy of Te Mana o te Wai, and a discharge permit application in Taranaki was refused with one of ten

² Regulatory Impact Statement: Excluding the hierarchy of obligations within the National Policy Statement for Freshwater Management from resource consenting (23 May 2024) page 44-48.

principal reasons being ‘the application is inconsistent with Te Mana o te Wai’. However, in both examples, adverse environmental effects also featured in the decisions and these consents would likely have still been declined irrespective of the hierarchy of obligations.

- 3.6 Conflicting user groups in the resource management of water resources is the central issue. Therefore removing the central concept of what values are prioritised over others (Te Mana o te Wai) will only lead to further uncertainty and litigation.

The hierarchy of obligations prioritises:

- a. first, the health and well-being of waterbodies and freshwater ecosystems.
 - b. second, the health needs of people (such as drinking water).
 - c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and into the future.
- 3.7 Fish & Game submit that the hierarchy of obligations with the sustainability of the natural environment as the highest priority be retained. This prioritisation appropriately reflects concepts of sustainable management and the protection of the life supporting capacity of natural resources. Prioritisation of environmental health, provides for both indigenous and valued introduced species, to be maintained and protected. This approach will continue to support the species that Fish & Game manage.

National Direction

CI 11 (9)

- 3.8 We are concerned about the scope of the “evaluation” reports that will be required for consideration of national direction. The effectiveness of the proposal, its impact on the environment and the economy, and reasonably practicable

options fails to put environmental health front and centre. We are concerned about the removal of the requirement to assess whether national direction achieves the purpose of the RMA. Further, there is no analysis by Mfe why this change is necessary.

- 3.9 We recommend that national direction must also achieve the purpose of the RMA. This includes part 2 and the environmental bottom lines in the RMA.

CI 11 – 17 Amending National Direction

- 3.10 We are also concerned about the increased scope of amendments that the minister can do without public consultation. We are most concerned about changing the time frame for implementation of any part of a National Environmental Standard. We note that changing timeframes will result in significant adverse effects for the environment.
- 3.11 We have for many years assisted governments with advice on how to maintain and enhance the habitats that our species live in. We would like to continue to assist with this work and therefore would like to see the continuation of public consultation processes in association with preparing national directions.
- 3.12 We recommend that the Board of Inquiry process is retained for significant national policy eg New Zealand Coastal Policy Statement. We also would like to see minimum prescribed time frames for public consultation eg at least 20 working days rather than “what the Minister considers to be adequate time and opportunity” (CI 11 (7)). The knowledge and experience afforded in these processes should also be considered genuinely and therefore the removal of consideration of Part 2 and evidence received is likely to result in national direction that is only focused on the extractive nature of the resource. We want to see the continuation of the sustainable management of our resources.

Stock Exclusion Proposed Schedule 2 Amendments

- 3.13 The proposed amendments involve the removal of the definition of “low slope land” and requirement to exclude beef cattle and deer on low slope land. The exemption of extensive farming from the requirement to exclude stock from waterbodies via fencing is supported, however stocking rates should be established rather than blanket exclusion for low slope land. Fish & Game recommend the establishment of a stock rate threshold such as 11su/ha in relation to the exemption from fencing rather than just relying on the low slope definition.
- 3.14 Irrespective of land slope, beef cattle and deer should be excluded from Critical Source Areas, which is scientifically proven to be the primary pathway for contaminant discharges to freshwater receiving environments. Therefore the timing of any changes should be worded to ensure that the certified Freshwater Farm plan is in place prior to the repeal of this regulation.
- 3.15 The proposed removal of regulation 18 (exclusion of stock from natural wetlands on low slope land) is relevant to the Taieri Scroll Plain (Otago) area that we specifically submitted on below.
- 3.16 We submitted in July 2023 to the MFE consultation on Stock Exclusion and some of the key points from that submission are included below:
- *Fish & Game suggested that a mechanism should be used on the title acknowledging the exemption to stock exclusion so that it is clear to future land owners that the low incumbent stocking rate is the justification for not excluding cattle and deer from waterways and fencing waterways.*
 - *Where a low stocking rate is present, a New Zealand Farm Assurance Programme Plus or SLUI Farm Plan (Horizons Regional Council) would still provide better criteria for exemption than the Freshwater Farm Plan.*
 - *The proposed blanket low slope land exemption entirely disregards the potential presence of waterbodies that:*

-are sensitive environments or the habitats of rare and endangered indigenous fish species, many of which are non-migratory;

-have recognised instream values, such as spawning habitat for both indigenous fish species, trout, and salmon;

-have significant cultural, recreational, and amenity values; or

-degraded by land use activities, including livestock access to them.

This includes waterbodies that have internationally or nationally recognised values, e.g., RAMSAR sites or waterbodies with Water Conservation Orders.

Fish & Game submit that specific situations should be identified via Fresh Water Farm Plans (FFP). However FFP do not currently have a robust methodology or criteria for identifying or applying exceptions. Fish and Game submit that FFP should include the requirement to identify sensitive freshwater environments and should put in place management responses to protect sensitive values and habitats for example exclude stock from critical source areas, and greater setback distances from trout spawning habitats.

3.17 *Our advice regarding the Taieri Scroll Plan was:*

In the Taieri scroll plain, linking Freshwater Farm Plans to a broader wetland plan that spans multiple properties could be helpful. Direction would need to come down from the LWRP. As well as developing a methodology for exemption, Ministry for the Environment should focus on identifying specific properties that would qualify for exemption. Without this analysis it is impossible to get a feel for the scale of the proposed exemptions so Fish & Game can adequately assess if the proposal will undermine the intent of the Regulations.

- 3.18 We note that this work has not been done and therefore the proposed exception is being made on a large scale wetland without regard to the detrimental effects of continuing to graze the wetland.

Intensive Winter Grazing (IWG) Schedule 2 Amendments

- 3.19 There is clear evidence that intensive agricultural activities, including intensive winter grazing, pose a high risk to freshwater ecosystem health which results in adverse effects on the environment and water bodies.
- 3.20 The current NES-F Intensive Winter Grazing rules provide a pathway for these activities to be undertaken in a manner which reduces environmental risk, and provides certainty for land uses to operate.
- 3.21 In overallocated catchments, more stringent rules, or bespoke management frameworks than the NES-F standards, may be required to prevent further degradation. These frameworks were proposed to be put in place during the next round of regional plan changes.
- 3.22 Removal of the NES-F rules, would in effect mean Intensive Winter Grazing activities could require resource consent (“innominate activity”), and reduces certainty for these activities in relation to what is required to manage environmental risk while still be able to undertake the activity. Regional councils may need to carry out enforcement action relating to illegal discharges, if they do not have a permitted activity rule in their regional plan. Farm plans cannot authorise an activity that requires resource consent.
- 3.23 There is a well-documented link between vegetated riparian margins on slopes less than 10 degree and the health of freshwater ecosystems including evidence that, generally the wider the setback the greater the level of protection for the water body. With higher risk activities such as IWG greater precaution should be taken by requiring wider riparian buffers to protect water bodies.

- 3.16 Rivers, streams and drains should have a minimum setback of 10m where the slope of the land is less than 10 degrees. This has potential to filter out more than 80% of sediment and 70% of nutrients in overland flow.
- 3.17 The minimum setback for land steeper than 10 degrees is 20m, and more sensitive receiving environments such as wetlands and lakes should have at least 20-30m setbacks.
- 3.18 IWG should be prohibited in critical source areas at all times of the year.
- 3.19 Therefore, overall Fish & Game support the retention of the Intensive Winter Grazing rules, or at least until proposed plans are notified that appropriately manage these activities.

Prohibited Activities

- 3.20 The Resource Management Act 1991 allows for specified activities to be classified as prohibited activities. The effect of prohibited activity status means that no application can be made, and no consent can be granted for that activity. This is usually the result of an exhaustive democratic process (Schedule 1 RMA 1991) for activities that have significant cultural effects or public health effects such as the discharge of wastewater to freshwater.
- 3.21 In already degraded catchments, regional council will need to use this activity status to halt further degradation in freshwater health for example to prohibit the discharge of untreated effluent.
- 3.22 Section 70 and 107 of the RMA provides standard rules about discharges. The habitat of sports fish and game rely on good water quality, and these provisions seek to maintain good water quality.

3.23 S70 and 107 of the RMA provides crucial rules about discharges and they will also be relevant to IWG. These provisions set minimum standards so that discharges do not result in degradation of waterbodies. Fishing and game bird hunting habitats need these minimum standards to be retained in future RMA amendments to maintain good water quality.

(1) Before a regional council includes in a regional plan a rule that allows as a permitted activity—

(a) a discharge of a contaminant or water into water; or

(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water,—

the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

(c) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(d) any conspicuous change in the colour or visual clarity:

(e) any emission of objectionable odour:

(f) the rendering of fresh water unsuitable for consumption by farm animals:

(g) any significant adverse effects on aquatic life.

(2) Before a regional council includes in a regional plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the regional council shall be satisfied that, having regard to—

(a) the nature of the discharge and the receiving environment; and

(b) other alternatives, including a rule requiring the observance of minimum standards of quality of the environment,—

the inclusion of that rule in the plan is the most efficient and effective means of preventing or minimising those adverse effects on the environment.

- 3.24 We are aware of recent approaches by Environment Canterbury, Irrigation NZ and Ashburton Lyndhurst Irrigation Limited (ALIL) seeking urgent changes to section 70 and 107 RMA.
- 3.25 We agree with Irrigation NZ and ALIL that the recent High Court decision on s 107³ has significant implications for farming. It is important that farm systems that are making significant reductions in contaminant discharges, within a framework that will achieve instream freshwater outcomes, are able to be authorised.⁴
- 3.26 However, we strongly disagree with the amendments to ss 70 and 107 recommended by Irrigation NZ/ALIL. In particular, the recommendation that these provisions should no longer apply to diffuse discharges (from farming or any other activity) is entirely contradictory to the language and intent of these provisions and will remove critical “bottom line” RMA freshwater protections. The Irrigation NZ/ALIL amendments were presented to you as “upholding the intent of the law” and returning to the interpretation that has applied since 1991. That is not accurate. The intent of ss 70 and 107 was to cover both point source and diffuse discharges (from farming and other sources, eg urban stormwater). That issue has been tested in the Environment Court and High Court on at least five

³ *Environmental Law Initiative v Canterbury Regional Council* [2024] NZHC 612, under appeal to the Court of Appeal.

⁴ The implications of the separate High Court decision on s 70 are less significant, as it has long been recognised that significant adverse effects on aquatic life (from any activity) should not be authorised as a permitted activity. The s 70 decision does not prevent farming, it requires a consenting framework where significant adverse effects on aquatic life are occurring: *Federated Farmers Southland Inc v Southland Regional Council* [2024] NZHC 726.

occasions, and in every instance the Courts have found, that the words and intent of the provisions is to apply to diffuse discharges.⁵

- 3.27 Fish & Game would support amendments to s 107 that are consistent with upholding the intent of the law, and which also provide for farming in a way that also drives freshwater improvement where the health of freshwater is compromised, and prevents significant adverse effects on aquatic life. To start the discussion, we have recommended amendments in Attachment 3 to this letter. We will be writing to Environment Canterbury, Irrigation NZ and ALIL to initiate a conversation about these amendments. We do not agree that any amendment to s 70 is required.
- 3.28 ALIL says that it will ask that the amendments it prefers are made through the Resource Management (Freshwater and other Matters) Bill 2024. Fish & Game is very concerned that these changes were not signalled in the Bill and as such the public is unaware that these changes may be contemplated by Parliament. It would be contrary to democratic principles and good legislative process for such significant changes to be made through the current process for consideration of the 2024 Bill.
- 3.29 Making the changes sought by Irrigation NZ and ALIL would be a massive step backwards not only for freshwater, but also for agriculture and its social licence to operate.

Significant Natural Areas Schedule 2 Amendments

⁵ *Day v Manawatu-Wanganui Regional Council* [2012] NZEnvC 182 at [5-199] - [5-200]; *Horticulture New Zealand v Manawatu-Wanganui Regional Council* [2013] NZHC 2492 at [90]. *Aratiatia Livestock Ltd & Ors v Southland Regional Council* [2022] NZEnvC 265 at [255] - [259]; *Environmental Law Initiative*, above n 1; *Federated Farmers*, above n 2, at [71] - [73].

- 3.30 While we haven't listed specific submission points regarding these amendments, we note that SNAs often involve riparian planting which assists with improving water quality for our sports fish and game bird habitats.
- 3.31 The proposed delay in NPSIB 3 year period (CI 21) and deadline for notifying SNA plan change being pushed out from 2028 to 2030 (schedule 2) will only result in a return to using vegetation clearance rules. These rules would apply across the board, rather than to targeted properties which are known to have significant natural values. This will not be as efficient or effective as the spatial identification of SNAs. We therefore encourage you to not delay the identification of additional SNAs by District Councils.

Amendments Providing for New Coal Mines in Wetlands and SNAs

- 3.24 We are also concerned about enabling new coal mines in SNAs and wetlands (schedule 2). This extends beyond the NPS-FM that only provides for these activities as part of an existing operation or extension of an existing coal mine.
- 3.25 Our game birds require wetlands to live in and therefore further loss of their habitat will not be acceptable to our license holders. In principle we are also concerned about any increase in coal burning and the climate change effects this can also have on the species that we manage.
- 3.26 We therefore encourage you to only provide for existing mines and do not allow for new mining operations within wetlands and SNAs in New Zealand. We also oppose these changes as they enable significant adverse effects on the environment, and will contribute to climate change resulting in irreparable harm to current and future generations.
- 3.27 Some examples of environmental standards are included in attachment 1. These minimum requirements are necessary to ensure that the habitat of sports fish is maintained. The table doesn't specifically provide for game birds, but similar

water quality parameters apply. Key to game bird survival is the creation of new wetlands for habitat as so much habitat has been lost in the past to changing land use.

Conclusion

- 4.1 NZ Fish and Game Council is prepared to work collaboratively with the Government on this Bill and RMA Amendments generally. We are mindful that to be sustainable, development needs to be carried out within environmental limits. New Zealand Fish and Game Council do not agree that the proposed amendments will result in better outcomes for the environment. This is our main concern.
- 4.2 We thank you for your consideration of this submission.
- 4.3 Fish and Game wish to be heard in support of this submission.

Attachment 1 – Table of examples of Environmental Standards

Attachment 2 – Table summarizing specific sections that we do not support in the bill.

Attachment 3 – Potential amendments to s107

Attachment 4 – About Fish and Game poster

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

Standard	Detail
E. coli	If a single sample from a monitoring site is greater than 540 E. coli per 100 mL, the regional council must, as soon as practicable, take all practicable steps to notify the public and keep the public informed that the site is unsuitable for primary contact, until further sampling shows a result of 540 E. coli per 100 mL or less.
Phytoplankton (trophic state)	<2 annual median attribute band A <10 annual maximum Unit: milligrams chlorophyll-a per cubic metre
Periphyton	Use only the 17% exceedance threshold in Table 2 NPS-FM if that level of exceedance would have occurred under natural occurring processes. The term “conspicuous” has been removed from the NPS-FM 2020 (previously in the 2017 version). Conspicuous periphyton had been interpreted to mean “growing on rocks”. Because of this, approximately 25% of the nation’s rivers (naturally soft-bottom reaches) were excluded from consideration for nutrient outcomes to control periphyton in the NPS-FM 2017. Changes in periphyton abundance and frequency of blooms can be expected to increase as a result of climate change impacts. Warmer weather, longer periods of low flow, and less frequent ‘flushing flows’ to remove periphyton can be expected in many parts of the country. As such, you can expect increased periphyton growth during these conditions. This means controls on nutrients to limit periphyton growth will become even more important in the future.
Nitrogen concentrations	Nutrients impact the water quality and induce algae blooms that can decrease water clarity and dissolved oxygen, causing death to sensitive aquatic species. Nutrients also impact macroinvertebrate species composition, reducing food availability for trout, salmon and indigenous fish species. These effects start to occur at nitrogen concentrations above 0.8 mg/l.
Sediment	Deposited sediment cover in most places should be no higher than 20% and below 10% in important habitat/spawning areas for both native fish and trout and salmon. Suspended sediment should provide for water clarity of at least 0.61 - 2.22m, with this varying depending on the waterbody and needing to be much higher where

	threatened species, trout fishing and spawning, or swimming are identified values.
Temperature	for water bodies during spawning season cool water below 11 degrees for trout. Salmon require water below 14.5 degrees to successfully spawn and 16 degrees for egg maturation.
Dissolved Oxygen	If fish cannot take up enough oxygen to meet their energy demand for essential functions, ultimately they will suffocate and die. We expect dissolved oxygen target attribute states to be set above the national bottom line outlined in Table 7 of the NPS-FM, and applied throughout the catchment, not just downstream of point source discharges. In salmon spawning reaches during spawning season, dissolved oxygen must not be allowed to fall below 7 mg/l at any time.
Habitat Extent	Natural form and extent as well as river habitat and shading can be measured by the Habitat Quality Index and the Natural Character Index, Rapid Habitat Assessment and Stream Ecological Valuation.
Nutrient standards	DIN limits should be < 1.0 mg/L to protect salmonid fishery values. Outcomes for DIN concentrations should be set at around 0.3 - 0.6mg/L and median DRP concentrations should be set at around 0.01 - 0.03mg/L, where these nutrient limits are already met, or are achievable. Where nutrient concentrations exceed these values, reductions overtime should be considered. Changes may be intergenerational.
Hydrological Variability	Hydrological variability should be within 10% of natural flows for small streams and 20% for larger rivers. This does not include permitted activity takes which is largely an unknown quantity.

Attachment 2: Table Of Specific Sections of the Bill that we do not support

Section	Support / oppose	Recommended wording / add in
Section 7 New Section 32AB (Evaluation of National Direction)	Oppose	The valuation for national direction is focused on economic benefits. S32AB (1) should also include <u>(d) accord with Part 2 of the RMA</u> . Failure to do this will result in resource management that only looks at economic benefits of a proposal without considering the environmental costs and benefits.
Section 10 (3) (d) To change the time frame for implementation of any part of a National Environmental Standard	Oppose	We are concerned about changes to NES timeframes as this will delay improvements that are needed.
Section 11 Amend section 46A process for preparing national directions	Oppose	(7) (b) these notified <u>Public notification process</u> must be given what the minister considered to be adequate time and opportunity to make a submission a <u>minimum 20 working days to make a submission</u>
Section 13 Repeal section 47-51	Oppose	S47 Board of inquiry process should be retained. S49 Any person may make a submission to the board of inquiry should be retained. S50 Conduct of hearing including at least 10 working days notice of hearing. S51 Matters to be considered should include Part 2, any submissions received and additional materials and any evidence received. The board of inquiry arranges for a report and recommendations to be made to the Minister.
Clause16 Section 53 Amend (changes to review or revocation of NPS)	Oppose	

Section 22 further information	Oppose	Section 92 (further information relating to hierarchy of obligations in NPSFM. We recommend that further information should still be able to be requested to show how the hierarchy of obligations are met and the health of the waterbody is retained. Ecological effects (and other effects should also cover this issue) but it does get to the big issue of what takes priority – the natural environment or the human (economic needs) for the resource.
Clause 23 consideration of applications	Oppose	Section 104 (consideration of applications) should relate to the priority of the resource first before human needs are considered. This is the only way that the resource will sustain for future generations.
Clause 26 Schedule 4 Amended	Oppose	Removal of the hierarchy of obligations is opposed. The priority should be the sustainability of the resource first before the human needs for the resource.
Schedule 2 Amendments Critical Source Area definition change	Support	FFP Regulations Including critical source area definition from NES-F makes sense.
NES – F Revoke Regulation 3 definition of Critical Source Area to be revoked	Oppose – Definition needs to be retained.	NES-F Definition critical source area means a landscape feature such as a gully, swale, or depression that— (a)accumulates runoff from adjacent land; and (b)delivers, or has the potential to deliver, 1 or more contaminants to 1 or more rivers, lakes, wetlands, or drains, or their beds (regardless of whether there is any water in them at the time)
NES-F regulation 26 26B 27-31	Oppose	Intensive Winter Grazing removal. See our suggestions in the full submission in section 3.14-3.19.
NES-F 45(D) (7) and (8)	Oppose	Removal of clause that only allows for ancillary operations lawfully established at 5 January 2023. By 31 December 2030 the removal of coal (excluding coking coal) is excluded from the purposes for which

		consent may be obtained under this regulation.
Stock Exclusion Regulations Revoke Definition of Low slope land	Oppose	Retain definition of low slope land.
NPS-FM Activity is necessary for the purpose of extraction of minerals and ancillary activities	Oppose	Remove add in
NESIB must notify policy by 31 December 2030	Oppose	Support use of SNAs in general.

Note: we may have other points to add in our verbal submission.

Attachment 3 – Potential amendments to s 107

107 Restriction on grant of certain discharge permits

(1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing—

- (a) the discharge of a contaminant or water into water; or
- (b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
- (ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

- (c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
- (d) any conspicuous change in the colour or visual clarity:
- (e) any emission of objectionable odour:
- (f) the rendering of fresh water unsuitable for consumption by farm animals:
- (g) any significant adverse effects on aquatic life.

(2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—

- (a) that exceptional circumstances justify the granting of the permit; or
- (b) that the discharge is of a temporary nature; or
- (c) that the discharge is associated with necessary maintenance work; or
- (d) that the discharge permit or coastal permit is to authorise an existing activity, and that:
 - (i) the effects described in subsection (1) are already experienced in the receiving waters; and
 - (ii) conditions imposed on the discharge permit or coastal permit require the permit holder to undertake works or achieve staged reductions in contaminant discharges over the term of the permit that will ensure that upon the expiry of the permit the requirements of subsection (1) and of any relevant regional rules will be met; and

(iii) the discharge permit or coastal permit is not a replacement for a permit that was granted in reliance on this provision and that has failed to achieve subsection (2)(d)(ii);

and that it is consistent with the purpose of this Act to do so.

~~(3) In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.~~