10 February 2025

Submission to the Environment (Select) Committee made by New Zealand Fish and Game Council with regard to the Resource Management (Consenting and Other System Changes) Amendment Bill

Resource Management (Consenting and Other System Changes) Amendment Bill 105-1 (2024), Government Bill – New Zealand Legislation

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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 game[1].

1.3 Our vision, purpose and values are illustrated below:

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

1.4 Fish and Game is entirely funded by licence holder fees and private contributions, meaning the delegated function of managing the species for the public good is funded entirely by the users. It is a democratic '*user pays, user say'*s organisation. Using this system, Fish and Game funds public good research to

[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.

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.

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 (Consenting and Other System Changes) 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 Electrifying NZ Reform, Farming and primary sector issues, s70 amendments, changes to DOC functions, further information limitations.

3.2 Power of Waiver and Extension of time limits (11, section 37 (1B))

Oppose – Not allowing a consent authority to extend processing time frames for wood processing and specified energy activity activities will not result in better outcomes, it will only result in more timely outcomes. Fish and Game are concerned that making quicker decisions will result in more environmental degradation e.g. of water ways from discharges and more loss of habitat e.g. from hydro electric developments.

The focus should be on why the delay occurred rather than the delay itself. A request for more information, for example, helps ensure decisions are well-informed and reliable. Delays often arise from the need for clarity, accuracy, or regulatory compliance, all of which lead to better long-term environmental outcomes. Addressing the root cause improves efficiency and prevents future delays, while simply focusing on the delay alone risks overlooking key factors in decision-making.

3.3 Authorisation and Responsibilities of Enforcement Officers (12, section 38)

Conditional Support – replace “of the new ministry” with “the ministry for Primary Industries” we would want to understand the specific circumstances when MPI would be undertaking the enforcement work for council and would anticipate that the local authority would normally have this role and only Biosecurity Act issues would involve MPI enforcement staff. We have also commented on this issue in

the consultation closing on 13th December 2024 with MPI on proposed amendments to the Biosecurity Act.

3.4 Section 70 Amended Rules about Discharges (15, section 70)

Section 70 currently states that before a regional council includes in a regional plan a rule that allows a permitted activity a discharge of contaminant into water or land the regional council shall be satisfied that none of the effects listed in (c) - (g) are likely to arise in the receiving waters, after reasonable mixing. (g) "*any significant adverse effects on aquatic life".*

Existing wording:

70 Rules about discharges

(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.

- The proposed amendments in the RM Consenting and Other System Changes Bill to s70 are as follows:

15 Section 70 amended (Rules about discharges)

(1) In section 70(1), replace "Before" with "Except as provided in **subsection (3)**, before".

(2) After section 70(2), insert:

(3) A regional council may include in a regional plan a rule that allows as a permitted activity a discharge described in subsection (1)(a) or (b) that may allow the effects described in subsection (1)(g) if—

(a) the council is satisfied that there are already effects described in subsection (1)(g) in the receiving waters; and

(b) the rule includes standards for the permitted activity; and

(c) the council is satisfied that those standards will contribute to a reduction of the effects described in subsection (1)(g) over a period of time specified in the rule.

- Fish and Game included the following wording suggestion in their Resource Management (Freshwater and Other Matters) Amendment Bill dated 27 June 2024. This submission related to amendments to s107, but the wording is also applicable to s70.

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.

- The following wording was included in section 107 (2A) which is a watered down version of what F&G asked for:

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

(a) is satisfied that, at the time of granting, there are already effects described in subsection (1)(g) in the receiving waters; and

(b) imposes conditions on the permit; and

(c) is satisfied that those conditions will contribute to a reduction of the effects described in subsection (1)(g) over the duration of the permit.

3.5 State of the Environment Information and s70

F&G is concerned that many regional councils do not have good State of the Environment Monitoring information to base s70 (3) (a) assessments off. The Parliamentary Commissioner for the Environment has also confirmed in reports in 2024 that the environmental information that we are working from is inadequate.

It is unclear whether applicants or the council would be required to take monitoring as part of the permitted activity process. This approach could effectively grant the applicant a form of grandparenting or existing use rights at the time of consideration. However, neither the NPS-FM nor the RMA allow for maintaining existing levels of degradation.

The proposed drafting of s 70(3) lacks clarity and specificity, with key issues including:

a) A lack of direction around appropriate timeframes to achieve freshwater ecosystem health in degraded catchments. Fish and Game believes that the trajectory for achieving freshwater ecosystem health should align with the pace of past degradation, ensuring fairness; and

b) Lack of clarity around the extent to which a council or emitter can rely on it in degraded catchments, particularly if a regional plan that has failed to deliver the desired improvement in freshwater ecosystem health. Fish and Game believe that a council should not be able rely on this provision indefinitely, especially if it has overseen trends in freshwater degradation. Likewise, emitters should not use it to obstruct efforts to restore freshwater ecosystem health.

Improving freshwater ecosystem health will come at a cost and take time. It is easy to push for delay, but every delay increases both environmental damage and the effort and investment needed to fix it. The intent of s 70(3) must be for significant action to begin immediately in degraded catchments to restore

freshwater ecosystem health . As a matter of fairness, those causing the greatest adverse effects on ecosystem health in degraded catchments should be responsible for making the most significant improvements.

To have “significant adverse effects” on aquatic organisms would be to set national bottom lines or permitted activity rules that are very much worse than the Target Attribute States in the NPS-FM 2020.

3.6 The Goal Needs to be Improved Water Quality Not Decreasing the Standards

The focus needs to be on working out how to reduce contamination from discharges in catchments that are overallocated / degraded, rather than lowering the standards to accommodate water bodies where life supporting capacity is compromised.

Environmental Law Initiative continue to apply for Judicial Review cases against Environment Canterbury as council has allowed an unacceptable degree of ground water contamination which is adversely impacting community drinking water. These cases may not focus on aquatic life, but they are still pointing out that the process has not been adhered to and farming isn’t the only or priority user of freshwater resources. Freshwater aquatic health is not only impacted, community values are impacted adversely. This leads to negative impacts for the economic users of the resource.

To prevent further degradation, it is also important to note the differing impacts of sheep and beef farms compared to dairy farms and development of rules to promote mixed use or a move towards lower impact land uses will promote no further degradation of waterbodies.

3.7 The Disadvantages for Permitted Activities

The other reality is that council and the applicant will not monitor the site to ensure that further degradation is not occurring. This can only be achieved via consent

conditions and active monitoring of a resource consents. Payment for that monitoring is also part of the consent, and permitted activities do not have a mechanism for paying for monitoring. This will result in all ratepayers paying for monitoring that should be collected as a targeted rate from specific catchments.

If permitted activities are introduced, those carrying out those activities should be levied for paying for permitted activity monitoring and enforcement.

Regional councils in New Zealand often struggle to effectively monitor permitted activities due to limited resources, competing priorities, and reliance on self-reporting by those undertaking permitted activities. Many councils lack the staff and funding needed for proactive enforcement, leading to gaps in oversight and inconsistent enforcement. Additionally, the sheer volume of permitted activities in regional and district plans makes comprehensive monitoring challenging. This weak enforcement, particularly for intensive land use activities, has cumulatively resulted in freshwater degradation.

What is needed in degraded catchments is specific action plans to actively reduce the existing degradation, rather than getting rid of consents all together and allowing for permitted activities in areas where additional activity will only exacerbate the existing environmental problems. The identification of values, what you want to achieve and rules and initiatives that need to be put in place to address the degradation. This work can be done on a catchment basis and mapped geographically.

Resilient, climate change, flood protection, healthy environment and economic prosperity. This involves a step away increasing intensification and locking in land uses to management frameworks which signal the outcomes communities are looking for and enable land uses to shift to land uses that are more suitable for the natural capital of the environment.

3.8 Section 70 (3) (b) The Problem with Providing Place Based Standards

Oppose, F&G are concerned that a large range of different catchment based permitted activity standards will be developed, especially with government signaling that permitted activities will be used more widely for RMA Phase 3 reform.

3.9 It is important to note that the Court of Appeal decision noted that the problem is not the standards, the problem is that there is widespread degradation of water bodies in Southland. Increasing the number of permitted activities will exacerbate this situation in already degraded catchments.

3.10 In January 2024 the Parliamentary Commissioner for the Environment 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.*

3.11 Proposed s70 (2) (b) Minimum Standards

Oppose, F&G is concerned that s70 (2) (b) can be used to include a rule requiring observance of minimum standards of quality of the environment and *that the inclusion of that rule is the most efficient and effective means of preventing or minimizing those adverse effects on the environment*. F&G is concerned that minimum standards will be set that allow for significant adverse effects on aquatic life, which will be detrimental to the species that we are mandated to manage.

3.12 S70 (3) (c) the Standards and Reduction of Effects over a Period of Time

Oppose, F&G is concerned that this wording is so loosely written so that very little reduction could occur over 25 years and this would still comply with the provision which clearly is not in the interests of the species we manage.

The wording that we suggested in relation to s107 requires improvements to be made within consenting timeframes, and with the proposed increased terms of consents we note that in degraded catchments reduced terms (e.g. 10 years) should be adhered to, not 25 years for water take and discharge consents.

3.13 General Concerns with s70 Amendment

Polluter Pays Principle – the proposed amendment does not require the polluter to improve their discharge quality or reduce their effect on the ecology that lives in the river i.e. aquatic life. This is better achieved via a consenting basis where monitoring and specific consent conditions requires betterment and improved discharge over time. This cannot be achieved via Permitted Activities. Aquatic life can't simply move elsewhere, so they either die or their numbers decline. This also reduces recreational opportunities associated with abundance of aquatic life.

Cumulative Effects – the proposed amendment does not provide protection for existing invested farmers. It allows for additional resource use (and degradation) and therefore doesn't allow for other options that need to be implemented in already degraded catchments. The only way to stop further degradation in already degraded catchments is to reduce inputs (or outputs of contaminants such as nutrients, sediment and microbial). This will often involve refusing consents for additional inputs such as fertilizer application. Continuing to permit additional inputs either via consent or permitted activity rules will result in further degradation.

This brings us back to a debate about resource priority. F&G advocate for the ecology living in water bodies to be the top priority and that the environmental health of the water body to be maintained. The second need should be essential human needs e.g. clean drinking water and swimming water, and then the third priority are those commercial needs that have firm limits before they compromise the first and second priority.

3.14 s70 Solution

Rather than providing for diffuse discharges as a permitted activity in already degraded catchments, a whole of catchment, Pastoral Farming consenting

pathway is needed to protect existing farming interests while ensuring that further degradation does not occur.

We need to develop a consenting pathway with a review of the existing TAS dictating the activity status for the catchment. Our practice note on our waigoodpolicy page details our thoughts on consent terms and activity status. *"Where there is any uncertainty around use and managing water, resource consent terms should be a maximum of 10 years. If an activity would lead to over allocation, breach minimum flows, or exceed a target attribute state, that activity should be prohibited."*

The activity status of an activity in your regional plan should reflect:

- ***The risk of the activity to the environment.*** *Activities that individually or cumulatively would cause a significant adverse effect on aquatic life must not be permitted; this is restricted by s70(1)(g) of the RMA. A controlled activity status is also unlikely to be appropriate in these circumstances because it does not give the opportunity to decline the consent if significant adverse effects are occurring.*
- ***The allocation status of the water.*** *If a waterbody is at or near full allocation, additional activities should not be permitted. Permitted takes or discharge activities could allow water to become over-allocated, which Policy 11 of the NPS-FM does not allow. Where water is at or near full allocation, discretionary and non-complying activity status should be used so the council can carefully consider each application, and decline consents when full allocation is reached.*
- ***The level of certainty about effects.*** *Where there is any uncertainty about the effects of an activity on the values of waterbodies, or whether those effects can be appropriately managed, permitted or controlled activities are not appropriate. The council needs to retain discretion to enquire into whether or not the activity is appropriate, and what appropriate conditions of consent to manage effects would be. Limited discretionary activities unless carefully worded may not be*

broad enough to enable this assessment, and therefore discretionary or non-complying activity is more appropriate.

Activities should be prohibited when:

- *the activities, individually or cumulatively have a significant adverse effect on the health and wellbeing of waterbodies and ecosystem health;*
- *they would breach a limit, an environmental flow or level, or breach a target attribute state;*
- *when an NES prescribes prohibited activity status, or that resource consent cannot be granted in particular circumstances.*

Permitted and controlled activities should only be used where there is certainty about the impact and appropriate management of activities, and only in areas that are not nearing full allocation or well within TAS A and B, not bands D.

Ecosystem health and other compulsory values, and the ability of the community to provide for their well-being, must be sustained and held for future generations' needs.

3.15 Private Property Rights over Common Interests

Strengthening private property rights has been signaled as a key issue for future resource management. We note that private property rights are only what local law and policy provides for and setting this to provide for ecosystem health is critical. It is important that the balance is not tipped in favor of land owners who have negative environmental effects (externalities) on neighboring property owners, or commonly owned resources. Waterbodies are generally held in common ownership with a few exceptions. Therefore, private owners cannot expect to undertake activities that have adverse effects on commonly held resources such as water quality and quantity. The farming sector does not enjoy a privileged position to the extent that it should be immune from regulation where

its activities are causing an adverse effect on freshwater ecosystem health. Economic consequences for private individuals maybe an inevitable corollary of regulation in the public interest, particularly in degraded catchments. That is not a reason to manipulate or pervert measures to maintain or restore freshwater ecosystem health. It does however, emphasise the importance of consistent and transparent implementation to ensure those consequences are evenly and fairly distributed. As a matter of fairness, those causing the greatest adverse effects on ecosystem health in degraded catchments should be responsible for making the most significant improvements.

The proposed amendments to s70 are not only problematic for aquatic life, they will impact other down stream users. Down stream "users" include:

Stock and human drinking water supplies, contact recreation sites and food collecting sites (including mahinga kai).

3.16 *Federated Farmers Southland Incorporated v Southland Regional Council* [2024] NZHC 726 [9 April 2024]: High Court decision on RMA s70 is very clear that many water bodies in Southland are degraded and that the discharge of contaminants incidental to farming and other activities is likely to be adversely affecting aquatic life. Given this, it would have also known that the proviso clause (s24a) could not prevent or avoid those effects once discharges were permitted. Therefore the proposed amendments do not seek to address the widespread degradation, and seeks to allow them to continue to occur.

3.17 With RMA Phase 3 it has been signalled that Permitted Activities will be widespread. This may be appropriate for housing and district council consents, but this is not an appropriate activity class for high risk, already degraded catchments that will not be fixed by farm plans. Already degraded catchments will need a whole of catchment consenting pathway to maintain the existing degradation, and action plan to progress out of the degraded state.

3.18 Permitted Activity Rules should only be used for low risk, easy to monitor issues. There is plenty of evidence around the country showing that there are significant adverse effects on aquatic life. F&G does not support permitted activity rules that clearly will not comply with Part 2 of the RMA. Generally speaking, the use of permitted activity rules, especially for degraded catchments, would be inconsistent with objectives and policies in the regional, land and water and coastal plans, as along with the RMA, does not provide for further degradation.

Permitted activities requiring complex standards and / or conditions to avoid freshwater degradation are inappropriate. These activities need careful oversight to ensure compliance, which permitted activity rules lack. Without monitoring, enforcement, or consent processes, including scrutiny of the adverse environmental effects of the proposed activity, there is a high risk of ongoing harm to freshwater ecosystems.

3.19 Conclusions relating to s70

Section 70 applies to all discharges including diffuse discharges and at present councils are in breach of s70 if they adopt a permitted activity rule without first being satisfied that this is unlikely to give rise to any of the s70s listed adverse effects on the receiving waters, including aquatic life.

3.20 We are concerned about the amendments made to s107 in reaction to Environmental Law Initiative (ELI) v Canterbury Regional Council - NZHC 612 [20 March 2024]: High Court. F&G are particularly concerned given the public health effects associated with already elevated nitrate levels in many areas of Canterbury. F&G are also concerned about the cumulative downstream impacts on the Coastal Marine Area, and rivers generally associated with discharge of synthetic nitrogen fertiliser. F&G want to see no worsening of s107s adverse effects on receiving waters, including on aquatic life.

3.21 S70 and 107 of the RMA provides crucial rules about discharges and they will also be relevant to Intensive Winter Grazing activities. These provisions set minimum standards so that discharges do not result in degradation of waterbodies. Angling and game bird hunting habitats need more than minimum standards to maintain ecological health for the species that we manage.

3.22 Section 25, 86B when rules in proposed plans have legal effect

We generally support changes proposed relating to natural hazards. However, we are concerned that some regional councils are continuing to narrowly control river corridors rather than giving the river room to flood and carry out natural processes that will continue to occur with increased frequency and scale with climate change. A more sustainable alternative is to allow a dynamically adjusting river to dynamically adjust: let the river be a river and do what rivers do. We acknowledge that it is unfeasible to walk away from river corridors with the infrastructure and investment and livelihoods that are bound up with the current practice of 'control'. A phased approach is needed, including time for communities to appreciate and understand the changes in practice. We recommend that flood defense schemes are designed to allow for natural processes to occur whilst ensuring property is not built in areas where natural hazards exist.

3.23 Time Frames for Specified Energy or Wood Processing Decisions

Certain consents must be processed and decided no later than 1 year after lodgement. This applies to a specified energy activity or wood processing activity.

Oppose this proposal because keeping to rigid timeframes will not allow for the best negotiated outcomes and consent conditions that provides for the inherent adverse effects associated with these activities. Having said that, I note in para 52 of the RIS that 95% of wind, solar and geothermal consents were granted within 1 year, so for the majority of cases this will not change. Para 69 notes that

84% of wood processing consents were granted in less than one year. Therefore we are particularly concerned that 1 year will not allow sufficient processing time for hydro electricity developments, for those that don't end up as fast track proposals. Hydro electricity developments are complex, involving many interested parties and requests for information and therefore will often require more time to get better decisions and outcomes.

3.24 Further information (30, section 92)

Oppose in principle but support that any information request is proportionate to the nature and significance of the proposal, however as pointed out above this is a subjective measure, and arguably already occurs.

3.25 Consequence of applicant's failure to respond to requests etc (32, section 92AA)

Support, where a consent authority determines that a resource consent is incomplete and additional information is not provided and 3 months after agreed date that information is not provided the authority can return the application.

We note that in para 42 [RIS: consenting 1 package] that in *2022/23 52% of applications were reported as having further information requirements, increasing processing time frames and that information is more frequently requested for major projects.* Therefore clearly the quality of the applications lodged is often to blame rather than the legislation under which the consents are granted.

3.26 Limited notification (33, section 92B)

Replace must with "may" when a consent authority considers an application under s104, where the applicant does not respond in writing regarding the commissioning of a report or refuses to agree to the commissioning of the report. Oppose – Peer review of reports and / or additional reports are common in larger more complex applications. There are many local authorities that do not have staff that are able to review specialist reports eg ecology reports and therefore

applicant co-operation with providing this information is an important step in the process.

3.27 Consent Authority Must not Hold Hearing unless it determines that Further Information is Needed (34, section 100 replaced)

Oppose – applicants that go to hearing are those complex applicants that have public interest. Most will involve specific questioning from the decision makers. Most applications will involve submitters that wish to be heard at a formal hearing.

Public participation is an important part of Natural Justice and is an element of the process that should be retained.

We do note that there are costs to be saved with not holding a hearing, but we feel that this can be overcome by the consenting authority getting more organized and allocating / discussing time requirements with each submitter and better scheduling of all those presenting.

3.28 Report to be provided to every person who made a submission

(35, new section 103BA)

Support new report to be provided to every submitter, under s42A, briefs of other evidence and any report commissioned under s92 (2).

3.29 Consideration of applications (36, section 104 amended)

Support (2EA) when considering a resource consent application, a consent authority may take account of any previous or current abatement notices, enforcement orders, infringement notices or convictions under this Act received by the applicant. However, we note that this clause isn't specific enough and fails to signal the consequence to applicants that have had previous abatement notices in that, or other regions i.e. would that mean that they would have their consent declined? Or would it mean that they would pay for more stringent monitoring? This clause has good intentions but fails to spell out what will happen

to repeat offenders. We are also skeptical and note that offenders will just start up a new company and continue to offend under a different name.

3.30 Consent authority may refuse a land use consent in certain circumstances (37, new section 106A inserted).

Support refusal to grant land use consent or grant consent subject to conditions where there is significant risk from natural hazards, increase existing risk etc. F&G promotes the concept of giving rivers room to move and therefore promotes the idea that developments, including housing and critical infrastructure, should not be located in known flood plains, tidal inundation zones, or wetlands (reclaimed land) which is better suited to habitat for the species that we manage.

3.31 Review of Draft Consent Conditions
(38, new section 107G)

Support, it is good practice for the consent authority to provide draft consent conditions for review. We particularly support s107G (3) for any submitters to provide their comments on the draft conditions to the consent authority in a reasonable time specified by the consent authority.

3.32 Conditions of resource consents

(39, amend s108) insert (da) a condition to mitigate any risk that a resource consent may not be complied with in light of any previous non compliance by the applicant.

Oppose – it is not clear what is meant in this section. Will a bond or fee be charged to the applicant to ensure that the consenting authority can carry out extra monitoring work to ensure compliance or clean up non compliance? More detail is required to understand what the intended outcome will be from this section.

3.33 Duration of Consent (41, 42 insert section 123B)

Oppose longer consenting terms for long lived infrastructure to 35 years.

We could support longer consent terms if conditions are reviewed every 10 years to incorporate technological advances and consider environmental monitoring trends. This can also allow for a review of consent conditions such as environmental flows. The premise should be that conditions will be more stringent, not relaxed over time as technology improves.

3.35 Lapse of consent (43, section 125)

Oppose longer lapse date for renewable energy activities to 10 years from 5 years. F&G doesn't support this proposal as applicants can already apply for a longer lapse period and / or get a time extension if substantial progress has been made. A "use it or loose it" consenting framework for renewables will encourage the actual building of these projects.

3.36 Circumstances when consent conditions can be reviewed (45, s128)

Support insertion that if the consent authority determines that the holder of the consent has contravened a condition of consent. We believe that this goes without saying but adding this section in is a good idea to make it clear that it is the consent authorities job to ensure that conditions are complied with, not for the applicant to just say that they are complying with conditions.

3.37 Audit of Farm for compliance with certified freshwater farm plans

Oppose replace s217 H(3) to (5) with *"(3)The farm operator must provide the auditor with reasonable access to the farm (or any part of it) for the purpose of any audit inspection".*

The existing wording gives better scope for on farm improvement and working with the auditor for improvements, rather than the proposed wording which only allows for <u>access</u> to the site and <u>no improvements</u> to be suggested and made. Section to be removed for reference:

(3)The farm operator must provide the auditor with—

(a) an up-to-date copy of the certified freshwater farm plan and any relevant information; and

(b) any further information that the auditor reasonably requests for the purpose of the audit; and

(c) reasonable access to the farm (or any part of it) for the purpose of any audit inspection.

(4) After completing the audit, the auditor must—

(a) provide the farm operator with a report of the auditor's findings on whether the farm achieves compliance with the certified freshwater farm plan; and

(b) if the auditor finds that the farm achieves compliance, provide that report to the relevant regional council.

(5) If the auditor finds that the farm fails to achieve compliance with the certified freshwater farm plan,—

(a) the auditor's report—

(i) must include reasons why the farm failed to achieve compliance; and

(ii) specify reasonable time frames by which compliance must be achieved; and

(iii) may include recommendations on how compliance may be achieved; and

(b) the auditor must give the farm operator a reasonable opportunity to respond to the report; and

(c) the auditor must, after the prescribed period has expired, provide the farm operator and the relevant regional council with a final report—

(i) setting out the auditor's findings (including the findings of the first report); and

(ii) stating whether compliance was achieved; and

(iii) including any recommendations from the auditor.

3.38 **Functions of regional councils (56, section 217I)**

Support the monitoring of delivery of certification or audit services by approved industry organisations in the councils region. It makes sense that industry organisations are involved in FFP but not to provide contextual information about catchments, that should still be the regional councils role as per MFE

guidance “Freshwater Farm Plans Guidance of Preparing Catchment Context, challenges and values information” 2023.

3.39 Regional Council may approve industry organisation to provide certification or audit services (57, s217KA) support in principle as this will reduce costs, however this is handing over regional council responsibilities and reducing the need for regional councils to monitor the effectiveness of the FFP in achieving freshwater improvements. It may end up that the FFP become a tick boxing exercise where the plans are completed but no significant improvement will be achieved in already degraded catchments as inputs will still be too high.

3.40 Regulations relating to Freshwater Farm Plans (58, s217M)

Oppose proposed amendments, particularly removal of prescribed timeframes for improvements recommended by freshwater Farm plans.

3.41 Environment Court may revoke or suspend resource consent (59, new section 314A)

Support in principle. However it is not clear if EC can revoke consents involving a waterbody with a Water Conservation Order so this should be made clear.

3.42 Scope of Abatement Notice (60, section 322)

Neutral, very similar wording.

3.43 Issue and effect of excessive noise direction (61, section 327)

Oppose

Where our partners have come across excessive noise complaints (eg local gun clubs) the existing 72 hours provision would provide adequately and 8 days would be excessive amount of time to prohibit all activity. Often with these complaints it is due to subsequent consents not providing adequately for reverse sensitivity issues in association with existing lawful uses. Noise sensitive land uses shouldn’t be granted consent adjacent to existing lawfully

established activities that could be subject to future excessive noise complaints. Or if they are granted, suitable consent conditions should be attached e.g. larger yard setbacks to the noisy activity to ensure that future complaints do not arise.

3.44 Emergency Response Regulations (64, new section 331AA inserted)
Support intent and need for work. We would also like to be consulted either directly or via the Minister of Hunting and Fishing (much like section 331AA (2) (e) regarding the coastal marine area, where a proposal includes works in wetlands or rivers and lakes where the species that we manage reside.

3.45 Penalties (65, section 339 amended)
Support

3.46 Insurance against fines unlawful (66, section 342A)
Support

3.47 Service of documents (67, replace section 352 (1)
Support

3.48 Validation of Royalties collected for sand, shingle and other natural material (68, new section 359A)
Neutral

3.49 Schedule 1 Amend – 4B Pre Notification requirement for proposed rule that controls fishing (70, schedule 1 amend)
Neutral

3.50 Amendments to Conservation Act 1987 – Other Offences in respect of Conservation Areas, replace section 39 (6) with (74, section 39)

Support in general, but note that DOC has not carried out enforcement action relating to this section.

6A and 6B. It is not clear what "certificate" would be required from the regional council. If the activity was permitted by the RMA or NES or secondary legislation a council would not normally provide an existing use certificate unless this was specifically applied for. This process is currently as onerous as applying for a resource consent as the burden of proof is on the applicant.

If the activity was a permitted activity the certificate would be a lawful use certificate, however if the activity required a consent the consent decision certificate does not confirm that the applicant is in compliance with the conditions of that consent. An up to date monitoring report might do.
Clearly, many would still be in breach of section 39 (4) as the RMA allows for a lower bar than this section.

3.51 Overall general concerns with Freshwater Farm plans

We have reviewed the RSS and note that an estimated 80% of dairy and commercial vegetable growing operations are subject to FW-FP requirements. This is good from the point of view that these requirements are not new or novel or unreasonable when overseas markets are requiring them. However what is concerning is that despite high membership of these schemes, there is still high degradation in New Zealand's water bodies that suggest that good management practices and FW-FP will not be fit for purpose in already degraded catchments (a point already noted in the discussion about s70).

Industry FFP do not start in the context of the existing catchment values and challenges (eg degradation) partly as it is regional councils role to provide that assessment and information. Therefore those FFPs are working in isolation of the identifying in detail the values in the catchment and what the farmer needs

to avoid, remedy or mitigate adverse effects on freshwater and freshwater ecosystems.

Generally speaking, some FFP fail to provide a line in the sand where the catchment is saturated with adverse effects and noting that further inputs from this farm (or others) must cease. This is where a regulatory approach of non complying and prohibited activities is needed and FFP will fail to provide the scale of improvements needed to hold the line or make incremental improvements.

Starting with a directive involving significant growth in farming will be problematic in already degraded catchments. This will only lead to further degradation at a time where the interests and investment of existing farmers need to be protected.

3. 52 Catchment context information

Fish and Game have been communicating to regional councils regarding the location of habitat of not only Trout and Salmon but also wetlands that involve game bird hunting recreational activities. As specifically identified in the RMA, (Section 7 (c) *Maintenance and enhancement of amenity values*, (d) *intrinsic values of ecosystems, (f) maintenance and enhancement of the quality of the environment, (h) the protection of the habitat of trout and salmon)* we are finding that many regional councils are failing to identify non indigenous fishing values in their consultation processes, which we don't believe is the correct application of policy 9 & 10 of the NPS-FM (*Policy 9: The habitats of indigenous freshwater species are protected. Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9).*

In catchments where sports fish and game birds live, we advocate for maintenance of ecosystem health. The habitat requirements for trout are generally higher than other recreational users and that is why not specifically

naming trout as being present in a catchment is a mistake as their specific needs are then not provided for. See attachment 1 for details on habitat requirements for salmonids. Many catchments have already degraded to a point where there are no or very little recreational value due to the nutrients and or reduced flow in the water body. Fish and Game want to see this trend to stop.

3.53 Fish and Game support the submission made by EDS, but note some of the issues are beyond our mandated function and therefore we have not gone into the detail regarding the Fisheries Act relating to regional councils and indigenous biological diversity. However we do particularly support their submission points below (para 3.54 – 3.56).

3.54 The Bill proposes to widen council powers to set administrative fees related to:
(a) Reviewing consents when required by national direction (Cl 10 (3)).
(b) Reviewing consents when the holder is in breach of conditions (cl 45)
(c) Permitted activity monitoring. This will reduce barriers that currently exist for such monitoring. It is particularly important in the context of wider resource management reform given Cabinet has indicated it will move towards increased use of permitted activity standards (cl 10 (1))
(d) Investigations to determine if someone has contravened the RMA (cl 10 (1)) However, it is important that appropriate checks on this ability are retained in the RMA (i.e. the criteria in s 36AAA) to ensure people are not charged excessive costs for unnecessary or unjustified investigations.

F&G supports these proposals.

3.55 The Bill includes a suite of proposals aimed at strengthening compliance and enforcement provisions. These include amendments that will:
(a) Increase maximum fines (cl 65) This will strengthen the deterrence power of financial penalties.
(b) Remove the ability to insure against penalties (cl 66)

(c) Introduce an ability to consider poor compliance history in consent decision-making (cl 36 (1)) and then decline applications on this basis, or impose conditions to mitigate future risk of non-compliance. (cl 39)
(d) Introduce an ability to review a resource consent if the holder has contravened a condition of consent (cl 45)
(e) Amend the scope of abatement notices to include circumstances of non-compliance or (not and) adverse effects (cl 60)
(f) Introduce a new process for applications to the Environment Court to revoke or suspend a consent due to ongoing, significant or repeated non-compliance (cl 59)

F&G supports these proposals.

3.56 F&G support the following suggestion from EDS (para 126 of their submission) regarding the role of the Environment Court:
"EDS requests further amendments to Part 12 of the RMA, including s 310, to clarify that the Environment Court has discretion to oversee all aspects of the administration and implementation of the RMA. In particular, it should be explicit that the Environment Court can review the contents and implementation of national direction (i.e. NPS and NES) against the statutory framework and grant relief where such instruments are found to contravene the RMA."

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

Attachment 1 – Table of examples of Environmental Standards for Salmonid fishery values
Attachment 2 – Waigoodpolicy overview.
Attachment 3 – About Fish and Game poster
Attachment 4 – The species that we manage

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

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

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

Attachment 2 – Waigood Policy Overview

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

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

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

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

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

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

What does Fish & Game do?

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

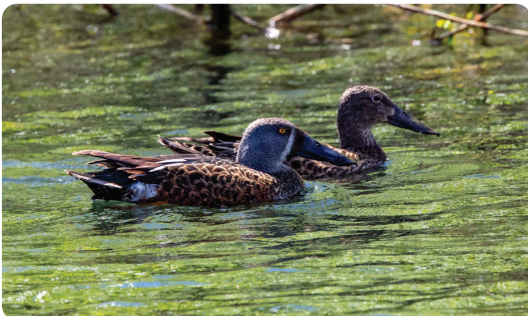
Californian Quail Koitareke

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

Fish & Game™
NEW ZEALAND

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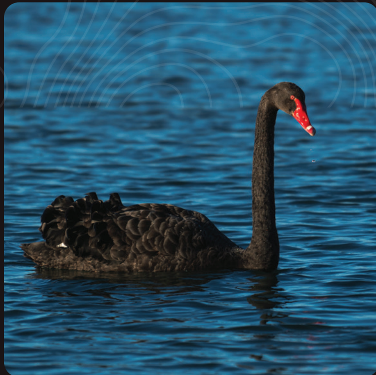
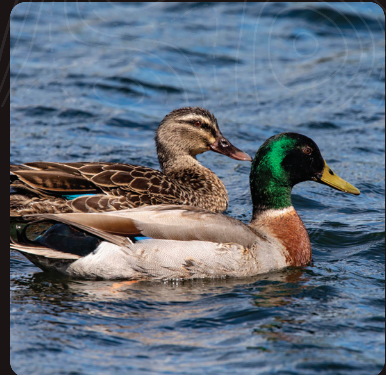
Species we manage

GAME BIRD SPECIES



Black Swan
Kakianau

Californian Quail
Koitareke

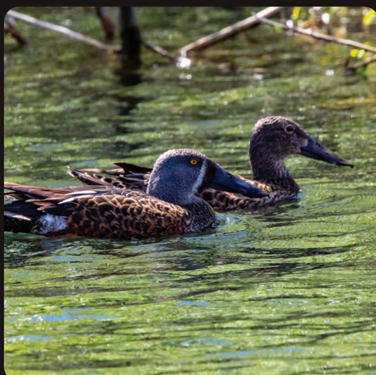


Mallard
Rakiraki

Paradise Shelduck
Pūtakitaki

Pheasant
Peihana

Pūkeko



Shoveler
Kuruwhengi

Chukar

Grey Duck
Pārera

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Species we manage

FISH SPECIES

Brown Trout

Rainbow Trout

Chinook Salmon

Sockeye Salmon

Brook Trout

Tiger Trout

Perch

Tench

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