



21 July 2022

### Submission on the 'Exposure draft of the National Policy Statement for Indigenous Biodiversity'

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

#### Submitter Details

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#### Summary

1. Fish and Game welcomes the opportunity to comment on the Ministry for the Environment's ('MfE') exposure draft for the National Policy Statement for Indigenous Biodiversity (NPSIB 2022).
2. Fish and Game supports:
  - the overarching intent of the NPSIB, as an essential part of the government response to biodiversity decline in Aotearoa. Aiming to protect, maintain and restore our indigenous biodiversity.
  - indigenous biodiversity conservation. Of the species Fish and Game manage, four game bird species are indigenous to New Zealand: **the Pukeko (*Porphyrio melanotus*)**, **the nationally vulnerable Grey duck or Pārerā (*Anas superciliosa*)**, **the Shoveler duck or Kuruwhengi (*Spatula rhynchotis*)** and **the Paradise shelduck or Pūtangitangi (*Tadorna variegata*)**. Each of these species, as with the others Fish and Game manage, is reliant on a healthy, biodiverse habitat in which to survive and thrive.

*Statutory managers of freshwater sports fish, game birds and their habitat*

- the addition of the **inclusion of Valued Introduced Species within the NPSIB** is requested in recognition of the role historically introduced, now naturalised, fish and game bird species have within the natural and cultural diversity within New Zealand. Specifically this links into the Te Rito o te Harakeke and its references to the interconnectedness of species within foodwebs and the need for a holistic management approach.

## About Fish and Game

3. Fish and Game is the statutory manager for sports fish and game birds, with functions conveyed under the Conservation Act 1987. The organisation is an affiliation of 13 separate Fish and Game Councils – 12 regional Councils and one national Council. Together, these organisations represent roughly 140,000 anglers and hunters.
4. The sports fish and game resource managed by Fish and Game is defined and protected under the Conservation Act and the Wildlife Act 1953. The species within include introduced sports fish and a mix of native and introduced waterfowl and upland game.<sup>1</sup> These species are also recognised within the NZ Biodiversity Strategy – Te Mana o te Taiao as ‘valued introduced species’ with significant cultural, economic and recreational contributions within New Zealand.
5. Of the species Fish and Game manage, four game bird species are indigenous to New Zealand: **the Pukeko (*Porphyrio melanotus*)**, **the nationally vulnerable Grey duck or Pārera (*Anas superciliosa*)**, **the Paradise shelduck or Pūtangitangi (*Tadorna variegata*)** and **Shoveler duck or Kuruwhegi (*Spatula rhynchotis*)**. The Black Swan or Kakiānau (*Cygnus atratus*) is also accepted as a native species by scientists, given its independent migration from Australia at the same time as introductions occurred. Each of these species, as with the others Fish and Game manage, is reliant on a healthy, biodiverse habitat in which to survive and thrive. Protecting and restoring national biodiversity of both animal and vegetation species is a primary focus of Fish and Game in ensuring that the populations and habitats of the native and non-native species we manage remain for present and future generations to hunt and recreate within.
6. Biodiverse ecosystems and their health play a key role in Fish and Game’s operations, with freshwater ecosystems being the primary habitat for the majority of game birds and **we have a statutory mandate to maintain and enhance this habitat, and in managing freshwater habitats we are benefiting *all* ecosystems and biodiversity.**
7. Nationally Fish and Game manage a number of wetlands as well as routinely operating restoration programmes to enhance the quantity and quality of freshwater and forest habitats. These operations have a dual benefit, creating increased habitat for game birds and accordingly increased opportunity for game bird hunters as well as providing increased habitat for a number of critically endangered or at risk/declining indigenous species. Such as the

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<sup>1</sup> Most New Zealanders refer to these species as ‘game birds’, distinguishing them from other types of game, such as deer or pigs. The Wildlife Act 1953 defines these birds simply as ‘game’ and this phrase is used in the context of this submission.

Australasian bittern (Matuku-hūrepo), Spotless crane (Pūweto), Fernbird (Mātātā) and NZ dabchick (Weweia).

8. Currently \$4 per game bird licence issued by Fish and Game goes to the Game Bird Habitat Trust, which oversees a grant programme for wetland habitat restoration and construction – **representing millions of dollars invested in freshwater habitat restoration activities to-date by Fish and Game.** Since its inception in 1990 Fish and Game has been one of the strongest voices for freshwater in New Zealand.
9. Fish and Game is entirely funded by licence holder fees and private contributions, meaning the delegated function of managing the species for the public good is funded entirely by the users. **It is a democratic ‘user pays, user says’ organisation. Using this system, the organisation funds public good research to ensure fisheries and game bird populations are managed sustainably; undertakes compliance with the licencing system and regulations; and contributes to public planning processes.**
10. In relation to planning, the Councils share a similar function to advocate on behalf of anglers and hunters and to advocate in the Councils’ interest, including their interest in habitat. Overwhelmingly, the advocacy sought by anglers, hunters and their elected Council representatives has been to seek environmental protection and restoration of degraded ecosystems.
11. **At the direction of its licence holders, Fish and Game has become one of the nation’s best-known advocates for freshwater ecosystems.** Some of the major cases taken by Fish and Game (since 1991, when the RMA came into effect) are:
  - a. protected the Hakataramea River from overallocation<sup>2</sup>;
  - b. protected the Nevis River from damming (via an amendment to the Kawarau Water Conservation Order);
  - c. set minimum flow on select rivers, and allocation limits and water quality standards on all rivers in Otago through environment court processes;
  - d. participated in the deemed permit process in Otago to restore ecosystems degraded by historic abstraction, including the Lindis High Court process, the Kyeburn Environment Court appeal and the Environment Court Plan Change 7 first instance hearing;
  - e. secured enhancement requirements for regionally significant wetlands in Otago, including recognising game hunting as a reason for protection;
  - f. successfully sought an Environment Court declaration that Horizons Regional Council was not implementing the One Plan in a lawful manner by issuing multiple consents for intensive farming with nitrogen leaching figures significantly over those identified as necessary to achieve the Plan’s water quality outcomes;

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

- g. lead the evidence which provided for the protection of the Tukituki catchment and established nitrogen limits in the Tukituki waterways, and preventing the building of the proposed Ruataniwha Dam;
  - h. secured recognition and provisions for the protection of salmon spawning sites in the Canterbury Land and Water Regional Plan;
  - i. secured a prohibition on damming the Hurunui River due to the presence of the outstanding trout fishery;
  - j. increased the minimum flow in the Hurunui River based on salmon passage requirements;
  - k. worked with environmentally aligned parties to secure incontrovertible recognition that agricultural land use was a significant contributor to degraded water quality in Southland's rivers, lakes and estuaries;<sup>3</sup>
  - l. maintained a hydrological periodicity for wetlands such as Pukepuke Lagoon, Lake Omanu and the eastern Lake Wairarapa shore wetlands – the latter under the Lake Wairarapa Water Conservation Order;
  - m. successfully opposed a 35-year resource consent application, which was declined as a result,<sup>4</sup> by Open Country Dairy to more than double the amount of wastewater it discharges year round into the degraded Wairoa River;
  - n. secured 13 out of the total of 15 current Water Conservation Order's;
  - o. provided feedback / written submissions as an affected party to thousands of consents affecting freshwater habitat and ecosystems nationally;
  - p. advocated for an active program to identify and remove fish passage barriers;
  - q. instigated research to place limits on discharges which increase instream water temperature to assist with the health of trout and native fish species population; and
  - r. worked with flood protection management through the resource consent process to protect and preserve the geomorphological characteristics of rivers.
12. To achieve this, Fish and Game staff includes ecology, planning and policy specialists. The local-facing structure of the organisation, combined with generally low turn-over rates and a focus on terrestrial ecology means that these staff are experts in biodiversity policy and its implementation.
13. This submission has been developed using the combined expertise and experience of Fish and Game's environmental policy staff.

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

<sup>4</sup> [Dairy company seeks to double its river discharge \(newsroom.co.nz\)](#)

## Detailed submission

Feedback on the NPSIB has been specifically sought on a series of questions, Fish and Game have provided input on a subset of these as detailed below.

### **Part 1: Preliminary provisions**

**2. Do you have any feedback on the workability of provision 1.5: (2) Te Rito o te Harakeke? Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

There is a phrase used in the Fundamental Concepts when defining Te Rito o te Harakeke which resonates with the priorities of Fish and Game and our desire for re-introducing of the 'valued introduced species' term and acknowledgement within regulations and standards. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community

Using that wider concept of interconnectedness between indigenous biodiversity and the environment supports the need to consider and discuss the importance of valued introduced species in the integrated food webs, which support the indigenous biodiversity and ecology of New Zealand's environments.

It is also worth noting that the arrival of people to New Zealand only 800-1000 years ago (a nanosecond in eco-evolutionary time) began a very recent, but massive and irreversible, ecological transition. This transition being the impetus behind the need for the NPSIB, however it should be considered that the anthropocentric focus of this clause requires acknowledgment and that the ecological reality within NZ is one of a novel species assemblage, that is inclusive of indigenous and valued introduced species that have established themselves within the foodwebs of freshwater ecosystems.

**3. Do you have any feedback on the workability of provision 1.5: (3) Maintenance of indigenous biodiversity?**

**Please be specific about what aspects don't work, and why.**

The focus on "at least no reduction" across the range of factors relies on accurate measuring of these systems prior to the commencement date of the strategy plans. As many regions, ecosystems, habitats or SNA's lack robust data, how will this be managed? A focus on using such data as a baseline which has to be improved from would be more aligned with the spirit of this document.

**4. Do you have any feedback on the workability of provision 1.5: (4) Effects management hierarchy? Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game has serious concerns regarding the option for ecological offsetting within the effects management hierarchy (EMH). The EMH defines a series of options available for managing the adverse effects of an activity on biodiversity, including options (d) offsetting and (e) compensation. However, the EMH is more in the nature of considerations to be had regards to rather than 'threshold tests', and thus doesn't ensure no net loss.

The EMH is based on highly controversial scientific opinion regarding biological offsetting, as well as limited evidence regarding the ability to create constructed ecosystems with biodiversity and biophysical characteristics equal to those of a natural system. The success of a biodiversity offset project is by no means guaranteed and is more likely to have pushed the loss of the original biodiverse ecosystem or species onto the next generation as an additional biodiversity loss legacy.

**5. Do you have any feedback on the workability of provision 1.6: Interpretation?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

The definition of indigenous biodiversity " the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats" also would encapsulate valued introduced species. As these introduced and now naturalised species of fish and birds are also living organisms and a part of the ecology.

**Part 2: Objective and policies**

**7. Do you have any feedback on the workability of provision 2.2: Policies?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Policy 2 likely needs further thought and clarification. There are terms requiring additional details or links to other elements of the NPSIB. For example:

- Who are considered tangata whenua?
- What do the terms kaitiaki and kaitiakitanga mean, in this situation, in terms of rights and responsibilities for indigenous species management?
- How will tangata whenua be supported in this, particularly in identifying and protecting indigenous species, which will be an expensive and ongoing undertaking?

**8. Do you have any feedback on the workability of provision 3.2: Te Rito o te Harakeke?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

This provision states tangata whenua are to be involved to the extent they wish to be involved, what happens when the requested level of involvement changes? Further elaboration of these circumstances and resulting options may need to be considered.

**10. Do you have any feedback on the workability of provision 3.4: Integrated approach?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game fully support the intention of the NPSIB to adopt an Integrated Management approach in recognising the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial environment, freshwater, and the coastal marine areas. This requirement for top-down adherence of government, regional and local councils to recognising the interconnectedness of the whole environment is vital to achieving the goals of the regulations.

**11. Do you have any feedback on the workability of provision 3.5: Social, economic, and cultural wellbeing?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Management of indigenous biodiversity must be science led: a balanced, healthy ecosystem (which includes valued introduced species) is required to allow for the abundance required to sustain harvest, and use of many indigenous species. This same approach to ecosystem health and management applies to species such as trout, salmon and ducks which have been historically introduced, now naturalised within the same ecosystems as indigenous species, and who have become a part of the NZ culture for over a century.

Fish and Game suggest that ongoing consultation and collaboration with national and regional offices is undertaken when considering 'd) the importance of forming partnerships in protecting, maintaining, and restoring indigenous biodiversity'. Commitment to working with us when making decisions regarding the governance and management of sports fish, game birds, and their habitats that we manage is sought and appreciated.

**13. Do you have any feedback on the workability of provision 3.7: Precautionary approach?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game support the precautionary approach, and request robust, measurable risk assessments of indigenous species to ensure the most vulnerable species are adequately protected from anthropogenic environmental impacts, and negative impacts on these species must be seen as potentially significantly adverse and are to be managed accordingly.

## **Subpart 2: Significant natural areas**

**14. Do you have any feedback on the workability of provision 3.8: Assessing areas that qualify as significant natural areas?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game request to be consulted in partnership with landowners and tangata whenua when decisions need to be made which could impact the species we manage and their habitat. (3.8.2.a). We have extensive and long-standing relationships with a wide range of stakeholders which could be utilised in discussions and decisions making.

**17. Do you have any feedback on the workability of provision 3.11: Exceptions to clause 3.10?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any. 3.11.1 - 3.**

There is some concern that these built-in exceptions for geothermal areas, mineral extraction, aggregate extraction, specific significant infrastructure are seeming to give precedence to large scale operations which often result in some or significant biodiversity at risk. Yet a single dwelling is not given allowances, despite being much lower impact, there is inconsistency here in the provision for exemptions to the clause,

Clause 3.11.4 will enable many areas of significant biodiversity to be lost. This is counter to the purpose of the NPSIB and unacceptable. There is no protections given if SNA is indigenous vegetation, or habitat of fauna, which was established and managed primarily for a purpose other than the maintenance or restoration of biodiversity. Many places which would be a SNA for biodiversity have not been set aside as such, and this should be done now to ensure that these special spaces are protected. To not protect them under the NPSIB into the future is unacceptable. What losses of our vulnerable and declining species are to be considered acceptable?

When considering clause 3.11.5, there is a need to place parameters around the term 'very high risk' – Fish and Game have witnessed councils using 'emergency clauses' to destroy fragile habitats previously, which is unacceptable.

## **Subpart 3: Specific requirements**

**26. Do you have any feedback on the workability of provision 3.20: Specified highly mobile fauna?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game request to be involved in decision making in all situations in respect to highly mobile species and their habitat that we manage. Our staff include highly skilled and experienced biologists, ecologists, resource managers and policy specialists with decades of knowledge of New Zealand's freshwater ecosystems and the interconnectedness of migratory species within and between these



globally. They are a valuable resource that should be utilised in policy discussions and collaborations with regional councils or local authorities.

**27. Do you have any feedback on the workability of provision 3.21: Restoration?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Within 3.21.2 the objectives, policies and methods must prioritise certain areas for restoration. This is an excellent inclusion, but seemingly pointless when previous subparts expressly allow degradation of SNA's and habitat of threatened biodiversity if large projects require it. This lacks consistency within the document and may require further refining.

**30. Do you have any feedback on the workability of provision 3.24: Information requirements?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game support clause 3.24. – that all consent applications require a report by a suitably qualified ecologist. However, 3.24(2)f - offsetting, is very poorly worded. It is almost impossible to assess the likelihood of success or failure of some venture attempting to compensate elsewhere for the loss of valued species in the work site.

Alternative methods or places for development should be the recommended outcome for any conflict between human or commercial requirements and that of nature to bring these into alignment with Te Mana o te Wai and Te Mana o te Taiao.

**31. Do you have any feedback on the workability of provision 3.25: Monitoring by regional councils?**

**Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game strongly suggest that when Regional Councils are developing monitoring plans (3.25.2) that have potential impacts on those species and their habitats are under management by our organisation, that these plans be developed in collaboration with the Fish and Game office.

Note that for clause 3.25(2)d; investment into long-term monitoring will need to be made, rather than merely a recognition in order to ensure the intended indigenous biodiversity outcomes are converted to outputs and eventual impacts, not simply a series of goals on paper. Monitoring needs to be able to achieve measurable benefits.

## Appendices

### **Appendix 5: Regional biodiversity strategies**

**40. Do you have any feedback on the workability of Appendix 5: Regional biodiversity strategies? Please be specific about what aspects don't work, and why. You can include suggestions for possible solutions if you have any.**

Fish and Game appreciate the inclusion of '(d) recognise biological and physical connections within, and between, the terrestrial environment, water bodies, and the coastal marine area' and often refer to this holistic ecosystem management concept when considering the habitat protections that umbrella species (including valued introduced species) can provide in protecting the habitat of native species. Valued introduced species have a guardianship role they can and do play in the habitat protection and restoration activities conducted by Fish and Game throughout New Zealand.

Additionally, we fully support clause '(e) support the achievement of any national priorities for indigenous biodiversity protection' through ensuring these protections are based on scientific reality rather than values-based judgements.