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Submission to the Environment (Select) Committee made by New Zealand Fish and Game Council with regard to the Fast-track Approvals Bill.

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on behalf of

Corina Jordan CEO

New Zealand Fish and Game Council

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

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.

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

New Zealand Council

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1.2 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 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.

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

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

Fish and Game in resource management

- 2.1 Fish and Game works to provide for the ongoing enjoyment of hunting and freshwater fishing assets, the maintenance (or enhancement) of public access to rivers, lakes, and wetlands for hunting and fishing, and the protection of the habitat of trout and salmon.
- 2.2 Hunting and angling require legal and physical access both to habitats and the resource itself. Maintenance and enhancement of access is critically important to the pursuits of our licence holders. The maintenance and enhancement of public access to and along lakes and rivers is listed in the RMA 1991 as a matter of national importance.
- 2.3 We see the opportunity for proposals to be required to provide improved access both to their sites and other nearby areas that involve hunting or fishing values as a form of mitigation for any loss of values on site. We seek that infrastructure development projects considered under the Fast Track legislation, consider Fish and Game as an expert advisor where gamebird and or sports fishery values could be impacted. We can work with applicants to develop mitigation plans to ensure outcomes that achieve both economic imperatives, along with recognising and providing for hunting and fishing values are achieved.

Fast Track Bill

- 3.1 This submission focuses on the parts of the Bill that relate to the duties and functions of Fish and Game councils.

Water Conservation Orders

- 3.2 Water Conservation Orders, that recognize outstanding recreational fishery values, or/and gamebird hunting values, should be excluded from the scope of the Bill. These Water Conservation Order freshwater resources are akin to National Parks, and as such should be protected. The significant natural capital recognised by existing WCOs is such that development projects should not override the values that these orders protect.

Consultation

- 3.3 Fish and Game should be added to the list of consultees for the Bill. We have a wide range of knowledge including species management relating to sports fish and game birds. Specifically, we request:

- I. New Zealand Fish and Game Council and the Fish and Game Regional Council that is geographically relevant to any specific project, are added into the Bill as being a party from whom feedback is sought when an application is made to the Joint Ministers. To do so would be consistent with the approach previously set out in the Section 17(6) of the COVID-19 Recovery (Fast-track Consenting) Act 2020.
- II. 'The relevant Fish and Game Council' is inserted under s 19 (1) of the Fast-track Approvals Bill.
- III. 'The relevant Fish and Game Council' is inserted under Schedule 4 s 20(3) and Schedule 4 s 20(5).
- IV. Insert a record of any consultation undertaken in Schedule 4 s 12.

Offset / Mitigations Plans for Infrastructure Projects

- 3.4 Fish and Game can assist with ideas for effects management as set out in the NPS-FM 2020 particularly in relation to natural inland wetlands, lakes and rivers that provide for gamebird hunting and freshwater angling values. We seek high-quality infrastructure developments that provide for fishing and game bird values where they exist, or where opportunities for enhancement are available, as well as providing access and recreation opportunities to our license holders.

We can work with applicants to obtain timely consent approvals that recognise angling and hunting values while providing for economic development. There are opportunities for improving public access and enjoyment via these new infrastructure projects that could provide win-win outcomes for all New Zealanders. Examples may include wetland restoration work and improved access for walking and game bird hunting.

Sustainable use and development of natural and physical resources

- 3.5 It is important that the selected and approved projects have merit in all four pillars of sustainability. This Bill relates to projects that are likely to exist in our society, culture, and environment for decades or even more than a century. Therefore, it is important that high quality standards are adhered to. Specifically, we request:

- I. A repeal sunset clause is added into the Bill, in the same way that COVID-19 Recovery (Fast-track Consenting) Act 2020 had, and the Housing Accords and Special Housing Areas Act 2013 had.
- II. If WCOs are not excluded from the Bill then environmental standards should be set (physical form and function, hydrology and water quality) which protect the salmonid and gamebird values identified (if any) in the WCO. Any development should uphold

these environmental standards. Add new s18(n) any activity that would lead to a breach of a regulation in any WCO which recognise salmonid or gamebird values.

- III. Explicit protection for the:
 - 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. Recognise and provide for freshwater angling/game bird hunting and amenity values.

Schedule 2A list of projects

3.6 We would like to review and comment on the list of potentially earmarked projects so we can better advise you on hunting and fishing matters in these locations. We are concerned that no projects have been included in the Bill as introduced. We urge you to also consult on the 100 projects that will be on this list. We are specifically interested in projects that impact on sports fishery and game bird habitat, or/ and freshwater angling, and gamebird hunting values. Some of the following kinds of projects can be in conflict with hunting and fishing values and the design and specifics of the proposal dictate to what extent:

- i. large water storage and take schemes
- ii. Waste Water Treatment Plant Discharges (particularly to water, or to land near water).
- iii. hydro electricity proposals
- iv. Loss of wetlands relating to land use change

Schedule 2B projects

3.7 The eligibility criteria set out in section 17 (2) & (3) include “*significant regional or national benefits*”, without appropriately considering other values such as sports fishery or/and gamebird hunting values and environmental standards related to the provision of these values. We believe that only projects with national or regionally significant economic benefits, when coupled with the provision of wider societal benefits, and where impacts on other values such as hunting and freshwater angling values can be appropriately managed (avoided, mitigated, or offset), should be included. The potential unintended consequence of the very wide

economic development eligibility criteria, without appropriate recognition of intergenerational wellbeing provided by the recognition of a wider suite of values, could result in the fast tracking of projects that may have unintended longer time effects.

Prohibited Activities

3.8 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. Specifically, we request:

- I. That s17(5) of the Bill is struck out.
- II. A new subclause of section 18 of the Bill is added to the effect that 'projects that include a prohibited activity under the RMA 1991' are ineligible.

Consultation with other Ministers

3.9 This Bill may have unintended consequences for established hunting and fishing access points, in recognizing and providing for the hunting and fishing values, and in providing for the habitat of sports fish and gamebird species. On that basis, we encourage you to include the Minister of Hunting and Fishing, or delegate, in this process. If not just in a land / species management capacity but to get a more defensible position when and if contentious projects are approved.

Purpose of the Bill

3.10 Section 3 Purpose of the Bill

"The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits".

As stated above in section 3.7 we are concerned that the scope of the bill is set too wide in relation to development projects without appropriately considering other values such as sports fishery and / or gamebird hunting values and environmental standards related to the provision of these values. The purpose of the bill should provide for social, cultural and environmental benefits, which include angling and hunting values, and not override all other societal needs

with economic development. We are confident this is not the intention of the Bill. We have detailed this idea further in section 3.12 - 3.16 below and sought amendments including the establishment of environmental standards in relation to sports fishery and gamebird habitat, and hunting and angling values, to address these concerns.

Decisions

- 3.11 We would be concerned about the provision for development projects that would significantly impact on sports fish and game bird habitat and associated hunting and angling values. This can be the result of design or location of a proposal and/ or failure to consider how hunting and freshwater angling values can be provided for through consent conditions including mitigation plans.

Decisions relating to waterbodies that are protected by a water conservation order should uphold sports fishery or/and gamebird hunting and habitat values, where they exist, in that legislation.

Notification and Standard Conditions

- 3.12 As there is no public notification process, or right of appeal, it is important that consent conditions involve best practice to ensure hunting and freshwater angling values and the habitats of sports fish and gamebirds are provided for, where they exist or where opportunities for enhancement exist. This can be achieved through the establishment of environmental standards which recognize and provide for these values. Specifically, we request that the following type of conditions (and other more detailed conditions) are developed and attached to approvals.

- I. Public access to, along, or across any river, wetland, coast, or their margins that existed prior to [*date of royal ascent*] be maintained or improved, and any temporary loss of access due to construction be restored within 90 days of project completion.
- II. If it is found, following an assessment of environment effects, to be the case that public access to, along, or across any river, wetland, coast, or their margins that existed prior to [*date of royal ascent*] cannot be maintained, this effect may be offset elsewhere in the same catchment.
- III. All works in any river, wetland, coast, or their margins shall ensure that the safe passage of fish upstream and downstream is improved or maintained following

the completion of construction. In this condition, 'safe passage' refers to physical barriers such as piers, culverts, and weirs and also any other attribute that prevents fish passage including but not limited to temperature, chemical concentration, light, or vibration.

- IV. Where fish spawning habitat is known, or following reasonable search found, to exist that physical works do not occur in those areas of habitat between spawning times of any year.
- V. For Solar Farm proposals: the spacing of solar panels with a minimum of 0.5m between panels shall so that bird strike can be minimised, and the finishing details of the panels are not reflective so that birds can see them (and avoid them).

Environmental Standards

- 3.13 Section 70 and 107 of the RMA provides standard rules about discharges. We think that this section needs to be carried forward into any decisions relating to the fast track legislation. The habitat of sports fish and game rely on good water quality, and these provisions seek to maintain good water quality.
- 3.14 S70 and 107 of the RMA provides rules about discharges which should be carried forward into the Fast Track bill. These provisions set minimum standards so that discharges do not result in degradation of waterbodies. Fishing and game bird hunting need these minimum standards 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.*

3.15 The National Policy Statement for Freshwater Management provides most of the detail for environmental standards including section 3.11 setting target attribute states, 3.12 How to achieve target attribute states and environmental outcomes 3.13 special provisions for attributes affected by nutrients and section 3.14 setting limits on resource use. Section 3.16 setting environmental flows and levels and 3.17 identifying take limits. Specific requirements are set out in subpart 3 including for deposited sediment, primary contact sites, water allocation, freshwater accounting systems, assessing and reporting, large hydro-electric schemes. Appendices include 1A compulsory values, 1B other values, 2A attributes requiring limits on resource use, 2B attributes requiring action plans, 2C sediment classification table, 3 national target for primary contact. This NPS-FM 2020 along with the NES-F provides the detail that provides for how regional policy relating to waterbodies will be set.

3.16 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 birds is the creation of new wetlands for habitat as so much habitat has been lost in the past to changing land use.

Re-consenting Existing Infrastructure

3.15 We are concerned that Fast Track legislation will be used for existing infrastructure projects. Regional consents have expiry dates and consent condition review dates. We suggest that

the following clauses are removed from the bill to make it clear that only new projects can go through the Fast Track process:

- I. Schedule 4 Clause 2 states you can use the Fast Track to change or cancel a condition of an existing resource consent, if it is part of a new project.
- II. Schedule 4 Clause 4 allows for s124RMA type of ability to continue using an existing consent while the new one is being processed, which indicates it could be used for replacement consents.

Existing infrastructure projects are best re-consented under the existing RMA provisions which is already fairly streamlined. Given that the government will want to focus on new projects, capacity will be stretched without adding the additional work of re-consenting hundreds of infrastructure projects as they come up for renewal.

Conclusion

- 4.1 NZ Fish and Game Council is prepared to work collaboratively with the Government on this Bill and getting the country moving. We are mindful that to be sustainable, development needs to be carried out within environmental limits. NZF&GC look forward to presenting these points to the Select Committee.
- 4.2 We thank you for your consideration of this submission.

Attachment 1 – Table of examples of Environmental Standards

Attachment 2 – About Fish and Game poster

Attachment 1 - Table 3.16 Some Examples of Environmental Standards related to providing for 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.