

Meeting of the
New Zealand Fish and Game Council
Wellington
Friday 27 & Saturday 28 May 2011
Commencing at 9.30 am

1. Present

Rob Roney (Chair), Chris Lynch, Dan Madsen, Lindsay Lyons, Bruce Bates, Alan Flynn, Richard Moore, Robin Blackmore, Peter Robinson, Matthew Hall, Dave Witherow, Peter Sutton.

2. In Attendance

Martin Gembitsky (DG Conservation's representative), Bryce Johnson (Chief Executive), Jenny Norris (Finance & Administration Manager) Hamish Carnachan (Communications Manager) and Robert Sowman (Policy & Planning Manager).

Chris O'Meara a Wellington Fish and Game Councillor attended the meeting on Saturday from 9.00 am as a member of the public.

INTRODUCTION

3. Welcome

4. Apologies

Bruce Bates flight had been cancelled and he arrived at the meeting at 11.30 am Friday. Martin Gembitsky extended his apologies for Saturday being only able to attend the one day – Friday.

MEETING REVIEW

5. Identification of other Urgent Business

The Chairman asked councillors to make known any items that they intend to raise under "any other business". Three additional items were identified:

- 1 CEO Appraisal to be considered under NZ Council Business
- 2 Pre-election questions to be identified to put to all political parties
- 3 Discussion of Dave Witherow's paper 'The Great Audit War' to be considered under Urgent Business.

Councillor Witherow requested a councillor only session. This was denied by the Chairman. The CE commented that in his view councillor-only-sessions had been illegal all along. Councillor Witherow then moved (seconded by Councillor Lynch) that council adjourn in order for an informal discussion between councillors without staff present. The Chairman refused to accept the motion. Councillor Lyons moved a vote of censure on Councillor Witherow (seconded by Councillor Blackmore). Councillors Lynch and Hall asked for evidence to support this, no evidence was produced. The motion lapsed.

6. Annual Agenda/Conflicts of Interest Register

Consideration of the NZ Council's Annual Agenda raised two points:

- 1 Delete the first bullet point in the March Annual Items column – a Strategic Planning Session – and place it in the November meeting.

- 2 Introduce a one-day January or early February meeting to overcome a lengthy period without a meeting between November and March.

The Chairman reminded councillors of the need to declare any conflicts of interests in the items for discussion on the May agenda. The conflicts of interest register was made available for recording any conflicts that might arise at this meeting.

7. Confirmation of Minutes

The meeting considered the Minutes of the New Zealand Council meeting held in Martinborough 20 March 2011.

Resolved (Chris Lynch/Peter Sutton)

That the minutes of the New Zealand Council meeting held on Sunday 20 March 2011 be confirmed as a true and correct record.

8. Matters Arising from the Minutes

Item 5 Identification of other Urgent Business included NZ Council recording its concerns for and best wishes to North Canterbury Fish and Game councillors and staff affected by the Christchurch earthquake and particular sympathies to Peter Robinson as a councillor on the NZ Council. Peter acknowledged and thanked NZ Council for this action.

Item 8 on Matters Arising from the Minutes of the previous meeting to do with a Memorandum of Understanding between the NZ Council and Central South Island Fish and Game Council (CSI) was discussed. A draft letter to the Chairman of CSI and a Councillor Accord was distributed at the meeting with a request for comments from NZ Councillors by Friday 3 June. This draft would then be finalised and sent to the CSI Chairman as action to be completed following discussion between the two councils in November 2010.

Item 9 of the March Minutes about Kaingaroa Forest was discussed. Negotiations remain delicate, working with landowners (iwi) and forest managers (Timberlands). It was accepted that NZ Council should not intervene until Eastern Fish and Game Council has completed these negotiations. However, concern remains that access permit charges as established by Timberlands will become a precedent across the country. Discussions with the NZ Forest Owners Association are important in this regard, and will continue.

Item 12.1 Correspondence about exclusive capture and the real or perceived conflict of interest of Bruce Bates and his position on the NZ Council was discussed. A legal opinion on the potential conflict of interest has been sought but was not available at the time of the meeting. Once this has been received, this opinion will be circulated to the Council and discussed at the next meeting. A question was raised as to whether a person under legal investigation should step-down from duties during this period. Council agreed this procedure is not required in this case but that any discussion where a conflict of interest arises does mean that the person should not participate in that discussion unless invited to do so by the Council. The opinion sought should clarify such matters.

9. Action Log from Minutes of Previous Meetings

An item in the Action Log for September 2010 (Item 10.8) about auditing one activity across all regions was discussed. It was noted that for this year this could only involve an assessment based on current operational work/business plans, but that as public awareness is becoming increasingly important as an activity for Fish & Game councils, the NZ Council

needs to work with regions on this and keep it to the forefront of activity within the organisation.

NZ COUNCIL AND FISH & GAME NZ FINANCES

10.1 NZ Council Financial Report

The National Legal Pool Funds were discussed with the Finance & Administration Manager pointing out that the actual expenditure of \$73,207 so far this year was one of the lowest totals to date. However, it was recognised that there remained expenditure still to be claimed by regions. The estimated further legal costs against current approved cases and the need to provide reimbursement funding was also noted.

The response to the letter written to CSI seeking payment of the penalty interest resulting from withholding its levy remittance was discussed. The reason CSI gave for not paying the penalty interest being that the levy cheque had been banked by the NZ Council and by implication the amount paid was accepted as full and final payment. However, this reason was not accepted and NZ Council considered it raised a bad precedent.

Resolved (Robin Blackmore/Richard Moore)

That the March 2011 NZ Council resolution endorsing the need for policy to be upheld, be re-affirmed, with inclusion of NZ Council's concern of a precedent and the policy being sent to CSI.

A question was raised about the need to provide a national overview of Fish & Game finances and particularly the need to be more informed on licence income and tracking licence sales against budget. It is currently not possible to track the financial performance of the organisation during the year.

Resolved (Matthew Hall/Robin Blackmore)

That the NZ Council endeavour to improve the financial information from Councils' in order to get a national perspective of how Fish & Game New Zealand is performing.

Resolved (Peter Sutton/Chris Lynch)

That the Financial Report to 30th April 2011 be adopted.

10.2 Specific proposals for Capital Expenditure

There was one specific proposal for capital expenditure involving the purchase of laptops and it was agreed to approve expenditure for the purchase of three computers.

Resolved (Matthew Hall/Chris Lynch)

That the Specific Proposals for Capital Expenditure Report be received.

10.3 Research Programme for 2011/12

Discussion occurred on the range of proposals and the merit of some. NZ Council wanted confidence that research strategy criteria is being met by all applicants and stressed the need for all future proposals to be based on management need.

In recent years, there has been a growing demand within Fish & Game for staff to complete post graduate studies and to seek financial help from the organisation to do so. This, coupled with recent financially stringent times, led Fish & Game managers to recommend cancelling the scholarship on offer through Universities New Zealand as from 1 September 2011.

Resolved (Peter Sutton/Lindsay Lyons)

That the New Zealand Council

- 1. Agree, subject to research strategy criteria being completed for each project, that the seven research proposals accepted by Managers on 2-3 May 2011 be included in the Fish & Game New Zealand Research Programme for 2011/12. The seven proposals being:**

2011-2012 Research Projects accepted by Managers	
National mallard research	2,000
Mallard telemetry	11,620
Mallard monitoring method development	5,560
River Environment Classification (REC) and angler derived metrics	30,000
Licence pricing	37,400
Game Harvest Survey (GHS) analysis	2,000
Integrated catchment management for brown trout	15,000
Total	\$103,580

- 2. Agree to cancel the annual Fish & Game New Zealand Research Scholarship of \$10,000 funded by Fish & Game New Zealand and allocated by the New Zealand Vice-Chancellors' Committee.**
- 3. Confirm that the research fund allocation remains at \$100,000 per annum.**

10.4 Legal Fund Report

The update report was considered and a request made to avoid acronyms. Two additional projects were outlined by the CE that are not included in the report as neither has yet begun although one had previously been approved. The two proposals are the re-activated application for a Water Conservation Order (WCO) application on the Ngaruroro River in Hawke's Bay and a probable application to vary the WCO on the upper Rakaia River in North Canterbury for which a formal application is yet to be received.

Resolved (Richard Moore/Peter Sutton)

That the Legal Fund Report be received.

10.5 Application for RMA Pool Funding

Within the 2011/12 national budget process, a contestable fund application was received from Hawke's Bay, seeking funding to contract expert Resource Management advice to enable that council to respond to the consultation processes and associated investigations emerging in the region due to increased interest in large scale water retention and irrigation. Managers supported the bid, but agreed that the better process is to seek to have this included as an approved project for funding from the national RMA fund.

Resolved (Matthew Hall/Richard Moore)

That the Hawke's Bay RMA Advice project be approved for funding from the RMA/Legal Fund, to a total of \$10,000.

10.6 National Budget & Licence Fee Recommendations

The NZ Council considered the 2011/12 Contestable Funding allocations as recommended by Managers. This included discussion on two particular items:

- 1 Becoming aware of the fact that the Nelson/Marlborough Manager was absent from the meeting of managers and not able to speak to a contestable fund item his council proposed and adjusted by Managers in his absence. It was pointed out that the manager could seek to have the funding adjusted by making application for Exceptional Funding.
- 2 A request by CSI for a new staff member. Concern was raised at the absence of criteria for recruiting new permanent staff and the precedent that would arise from the CSI application. It was suggested that suitable weighted criteria be identified for determining staffing levels across all regions.

Resolved (Dave Witherow/Lindsay Lyons)

That NZ Council confirm the 2011/12 Contestable Funding allocations as recommended by Managers with a caveat placed on the CSI proposal for an extra staff member to be a one year FTE appointment up to \$60,000 with the position being reassessed against weighted criteria to be developed by the CE before the end of this period to determine staffing levels across all regions.

The Council discussed the Managers' actions to update salary reviews for the three categories of regional staff (field officers, resource officers and administrators). Following further discussion it was suggested that the NZ Council needs to establish national policy that would cause some consistency across regions and allow them to assess future staff salary related applications within the budget and licence fee setting process.

Resolved (Bruce Bates/Matthew Hall)

That the NZ Council CE be instructed to establish a working group to investigate and create policy for a national staff salary pay scale across regions for positions other than managers.

The recommendation by Managers for a 2011/12 adult whole season sports fish licence of \$115 and an adult whole season game licence of \$88 was also discussed at some length. It was recognised that the Minister of Conservation would be looking for assurances that Fish and Game had considered factors such as:

- 1 The absence now of Canada goose costs
- 2 The present economic climate
- 3 The role of Fish & Game as a public entity in light of the Minister of Finance's request that the Public Sector finds savings
- 4 What Fish & Game was doing about organisational efficiencies

- 5 The considerable resource commitment F&G has made to participate in the Land and Water Forum and Central Plains Water and other habitat protection initiatives.
- 6 The consequences of utilizing F&G reserves previously and the need to keep these reserve levels at the correct level to safeguard day-to-day running costs
- 7 Taupo Fishery District has only sought an increase in 2011/12 to cover its costs associated with GST increases left off last year's licence fee bid.

An argument accepted by NZ Council was for the need to keep up with CPI and continue the practice based on previous advice of making small increases on a regular basis otherwise Fish & Game will not be able to meet its statutory role of safeguarding licensed angler and hunter interests. The CE reminded the Council that the law requires the licence fee to be set at a level to "recover the costs attributable to management" and that the two elements of this statement were the only two available to the Minister to challenge the fee application.

Resolved (Dave Witherow/Lindsay Lyons)

That for the purpose of consultation with regional Fish and Game Councils, the NZ Council recommend a 2011/12 adult whole season sports fish licence of \$116 and an adult whole season game licence of \$88 (inclusive of a \$2 fee for the Game Bird Habitat Stamp) inclusive of GST.

That following consultation with regional Fish and Game Councils, the NZ Council hold a telephone conference at 7pm on Wednesday 22 June to set licence fees for 2011/12.

In closing the discussion, the NZ Council wished to acknowledge the extensive work of the Finance and Administration Manager in putting together the Fish & Game New Zealand budget and licence fee recommendation information and papers.

NZ COUNCIL BUSINESS & NATIONAL FISH & GAME ITEMS

11.1 Operational Report

Project 1140 Concessions/Guides Licence.

Discussion focused on exclusive capture and the potential mechanisms available to control them. The CE advised that based on current statutory mechanisms a permit type concession might offer the most likely form of control. He spoke of a recent meeting with the DG of Conservation about matters of interest to Fish & Game, including a fish and game concession regime. The distinction was made at that meeting that DOC operates concessions for commercial use of or over land it administers but issues permits (a particular form of concession) authorising any specified commercial operation involving the conservation, protection, or enjoyment of marine mammals. For example, a DOC marine mammal permit allows for operators to see whales, dolphins or porpoises whilst undertaking nature-based tours. Such a permit can extend to sea-based, land-based or aerial marine mammal watching. Fish & Game therefore needs to consider this option along with a modified concession regime with the understanding that it will need to provide for specified commercial operations involving sports fish or game birds. It was also noted that Fish & Game is not opposed to commercial tourism type activities involving sports fish or game but only any exclusivity that disadvantages the ordinary self-directed licence holder.

Project 1210 Habitat Protection and Management

Fish & Game's extensive role in the Land and Water Forum (LWF) was discussed, along with the questioning of Government's commitment to the collaborative process engaged through the LWF and its selective interpreting and adoption of the Forum's recommendations. The

question was asked as to what action the NZ Council should take in response to the LWF recommendations. It was widely agreed Fish & Game should actively promote the LWF recommendations as its own baseline position and actively endorse them in the public arena. There was considerable discussion about whether, in light of the Government's actions firstly over Canterbury WCOs and most recently over the NPS on freshwater, Fish & Game should stay in the Forum or withdraw and increase its public awareness activity. It was agreed that it should reconsider its position once the future role of the LWF becomes clearer, but should still proceed to increase its advocacy through increased public awareness on LWF related issues.

The CE informed the Council that he had had discussions with the Cawthron Institute regarding the purchase of technical interpretation of the National Policy Statement (NPS) for Freshwater Water Management. This would allow Fish & Game to argue with supportive expert evidence the merits and weaknesses of the freshwater NPS and promote an alternative NPS.

Resolved (Peter Sutton/Matthew Hall)

That NZ Council obtain expert advice from the Cawthron Institute on the NPS for Freshwater Management to a maximum of \$1,000.

Project 1250 Game Bird Habitat Stamp Programme

It was reported that sales income is down compared to the past two years, but further detail was not available prior to the meeting. This will be more fully reported to the next meeting.

Project 1320 Access to the Resource

Discussion focused on the Walking Access Commission. It was recognised the Commission's survival is by no means assured. Therefore it is important that Fish and Game councils provide it with access issues it can help negotiate and resolve to show its worth and the merit on it being retained. A case of use it or lose it.

Project 1420 Promotion of Fish and Hunting

Recent media coverage given to Fish & Game was attributed by the CE to the efforts of the NZ Council's new Communications Manager. Coverage of the plight of Southland's Waituna Wetlands in TV3's Campbell Live was highlighted and recognised as being excellent. The NZ Council asked that Zane Moss' presentation in that programme be especially acknowledged to the Southland Council.

Resolved (Matthew Hall/Chris Lynch)

That NZ Council acknowledges Zane Moss' involvement and performance in the TV3 Campbell Live presentation on the Waituna Wetlands on Thursday 26 May.

Resolved (Dan Madsen/Chris Lynch)

That the Operational Report for May 2011 be received.

11.2 National licence administration & YTD sales

The Policy & Planning Manager gave a presentation on the establishment and achievements of the agency online license sales channel introduced with the current game season. The big success story for electronic online sales (the public and agency sites) is definitely Northland with 53% of sales through these two channels. Other regions with higher usage of electronic

sales include: Wellington with 26%, eastern 18%, Auckland/Waikato 17%, Otago 16% and Hawke's Bay and North Canterbury 15% each.

The NZ Council appointee from North Canterbury spoke of concern that the region may be experiencing a loss of revenue due to the impact of the Christchurch earthquakes. The belief is that this region is behind in achieving its target sales. The NZ Council was asked to follow up on this concern by checking licence sales and also to consider possible sales going to adjoining regions.

11.3 Gifting sports fish and game birds

The earlier discussion (March meeting) on the use of shot game birds on upland game preserves resulted in the NZ Council being concerned that a potential anomaly existed with the way the Conservation Act and Wildlife Act treated the opportunity for the angler and hunter to take bagged species to restaurants and/or share them with family and friends. This led to NZ Council being asked to pursue a change in legislation if this proved correct. A legal opinion was sought from Anderson Lloyd and attached with the May agenda papers. The DG of Conservation's representative questioned the completeness of the legal opinion advising it had not considered s.57(3) or s.63(1) of the Wildlife Act. The Department did not want to provide its own legal opinion. It was therefore agreed that Anderson Lloyd be made aware of the DOC view and asked whether it wished to reconsider its opinion.

The difficulties in securing changes to legislation during this Parliament were highlighted by NZ Council staff and the DG's representative. It was noted that even with the identification of agreed anomalies it was unlikely such changes would be credited with any priority by the present Government. At best, Fish & Game could add it to its list of legislative changes it is seeking to be considered by the DOC and Minister of Conservation. Without the support of a Minister it is unlikely such changes will advance beyond Fish & Game's "wish list". It was agreed this should be raised again with the Minister.

11.4 Family Fishing Licence Conditions

A report by the Manager of Otago Fish and Game Council seeking a change to the rules relating to junior anglers included on Family Fish Licences being able to fish alone was considered by the Council. However, it noted seven council's were opposed to the change but were willing to allow the Licence category and pricing working party to give further consideration to the proposal in the context of other licence category/price changes it may recommend.

Resolved (Matthew Hall/Richard Moore)

That the NZ Council refer the matter of changes to the rules concerning the Family Fish Licence to the Licence Category & Pricing Working Party for their consideration and recommendations.

GENERAL

12.1 Correspondence

'The Great Audit War' was a paper written by Dave Witherow, which had been widely circulated to all Fish & Game Councils by the Auckland/Waikato Fish and Game Council in April. The Chairman of the NZ Council provided a copy of the paper with his responses inserted to the points raised. The Chairman then spoke to each of the responses with subsequent discussion by other councillors.

After lengthy discussion on the issues involved those opposed to the actions taken by the NZ Council Chairman and CE sought a vote of non confidence in the Chairman

Moved (Chris Lynch/Alan Flynn)

That a vote of no confidence in the NZ Chairman be taken with the numbers for and against by a show of hands be recorded.

The motion was put and a vote by show of hands taken. The numbers for and against were recorded as 6:6 resulting in the status quo remaining without the Chairman needing to exercise a casting vote.

The Council then discussed how it wished to proceed from this point. Council was made aware of its collective responsibility under its governance policies and the need to note that members accept that once a decision has been formally reached by the Council it is unacceptable for a member to undermine that decision or to engage in any action or public debate which might frustrate its implementation. It was further noted that members must not attempt to re-litigate previous decisions at future meetings unless the majority of members agree. Personal actions should not bring the Council into disrepute or cause a loss of confidence in the activities and decisions of the Council. A number of councillors also expressed their strong wish for the Council to return to the major issues facing Fish & Game on behalf of licence holders, noting the upcoming general election.

Resolved (Chris Lynch/Peter Robinson)

That

- i) The NZ Council Chairman write to the CSI Chairman to explain that the NZ Council regrets any pre-emptive rather than conciliatory action on its part and apologises for any hurt feelings.**
- ii) Furthermore, the NZ Council reminds the CSI Chairman that its concern going forward is that appropriate meeting processes are followed. Hence the proposed draft councillor accord for agreement and successful completion becomes the current wish of the NZ Council for consultation and implementation by all Fish and Game Councils.**

12.2 Urgent General Business

Two items were raised for consideration under Urgent General Business.

1 CEO Appraisal

The NZ Council Chief Executive's Appraisal Committee met with the CE in Christchurch the week before the May Council meeting. Its recommendations were presented by the NZ Council Chairman outlining the Key Performance Indicators in the coming year by the CE. The recommendations were accepted by the Council.

2. Pre-election questions to be identified to put to all political parties

A list of possible pre-election questions for political parties (with a view to minimise the risk of perverse outcomes) were written up for the Council to consider. Unfortunately time did not permit the Council to discuss this item. Rather it was agreed Councillors would give them further consideration in their own time and provide feedback to the CE.

- 3 The CE expressed a current (new) lack of confidence and trust in his employer 'as a collective' to give fair and safe consideration to a proposal he had previously been invited to put forward to reduce his hours and apply the 'savings' in an innovative way to increase national office capacity.
- 4 The Chairman asked the Council if anyone knew who had leaked Dave Witherow's 'The Great Audit War' paper. Nobody replied to the Chairman.

There being no further business, the Chairman declared the meeting closed at 12.07 pm Saturday 28 May 2011.

Confirmed: _____

Date: ____ / ____ /11