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NZ Parliament
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Subject: Natural and Built Environments Bill

Dear Eugenie and colleagues

Thank you for the opportunity to submit on this bill.

The New Zealand Federation of Freshwater Anglers

The New Zealand Federation of Anglers (NZFFA) is an incorporated society established in 1974 by angling clubs to have a national co-ordinating voice to oppose trout farming and other threats to the public's rivers.

While NZFFA supports Fish & Game, it acts as an independent advocate on behalf of New Zealand freshwater anglers.

NZFFA is modestly funded by donations from many angling clubs throughout New Zealand. Our executives are volunteers. Several are past or present F&G councillors. The NZFFA executive had/have a wide range of careers and experience linked by a common passion for freshwater angling.

Why we are making a submission

For the past four years the NZFFA has focused its advocacy efforts in Canterbury which we see as the region whose braided rivers and lowland streams have suffered most from the massive irrigation development that has taken place since the Canterbury Water Management Strategy became the driver of the Canterbury Regional Council's Land and Water Regional Plan.

In less than a decade we have seen once abundant numbers of the regionally restricted native fish, Stokell's Smelt, decline to near extinction.

We have learned the five species of native birds adapted to braided rivers are on a slower trend to extinction.

We have seen Canterbury's Water Conservation Orders targeted to enable the development of irrigation schemes.

We have monitored groundwater sourced lowland Canterbury rivers and streams.

Many now contain nitrate levels that are directly toxic to trout eggs and fry and other aquatic life.

We have been involved in community nitrate testing both independently and in conjunction with Greenpeace getting results that exceed LAWA data, often exceeding the maximum allowable value (MAV) for human drinking water.

Of great concern to anglers is the rapid collapse of the native and recreational fisheries of the Rakaia River since the Rakaia River NWCO 1988 was amended in 2013. [One of the three values the Rakaia River NWCO sought to protect.]

As an advocacy group, the NZFFA made submissions against the Lake Coleridge Project in 2012, both as an individual and as an organisation. It was clear this Ecan managed irrigation Hearing failed to consider the ecological impact of amending the Rakaia River NWCO while giving careful attention to the Hearing process in order to pre-empt appeals to the High Court on points of law.

Alleged inadequacies of the RMA 1991, were exacerbated by the constitutionally repugnant Environment Canterbury (Temporary Commissioners) and Improved Water Management Act 2010. (Phillip Joseph, 2010)

Canterbury residents already disenfranchised by the Ecan Act, were further marginalized by the establishment of 10 Water Zone Committees made up primarily of water users managed by a regional council run by government appointed commissioners. A very narrow interpretation of "community collaboration".

Many in this region have lost trust in central and regional government as a result.

How we are framing our submission

The size of this omnibus Bill makes specific clause by clause submissions by the NZFFA impracticable in terms of time, limited legal support and resources. Our submission must therefore be of a general nature.

Given our concern about protecting the wider environment, the NZFFA believe the natural environment deserves its own Act to give clarity of purpose.

The conflicting objectives of the NBE Bill are incompatible (Knight-Lenihan, S. 2022)

Topics

The NZFFA has considered the Natural and Built Environments Bill with particular focus on;

1. Democracy
2. Water Conservation Orders
3. Freshwater “ecological integrity”
4. Fish farming in freshwater
5. Consents; notification, permissions, (with reference to WCOs), compliance monitoring, and enforcement

1. Democracy

An indirect democracy such as ours, with limited opportunities for participation, relies on trust.

Autocratic decision making by central and regional government trades off efficiency and expediency against trust as Cantabrians who experienced the Ecan Act and the Ecan Provisional Governance Act will attest.

The NBE Bill increases Ministerial powers, (Part 3 and Part 10).
Will short-term political expediency be a greater risk to the environment than provincial self-interest of regional councillors?

Public notification and participation is an essential part of democracy. The NBE Bill restricts public notification.

Anglers play an important role in the guardianship of the waters they fish.
Fishermen’s motives for the preservation of fresh waters are primarily selfish, but there is no interest as strong as self-interest. (Rupert Watson, 1993).
New Zealand acclimatization societies had a stronger record for championing freshwater than conservationists.
Fish & Game appear restrained by the Conservation Act.
The NZFFA is free to speak truth to power.

The NZFFA believes more democratic outcomes might be achieved if the NBE Bill considered redressing the power imbalance between citizens and corporates in order to allow more equal decision making.
This might take the form of some sort of targeted fund the public can access.

2. Water Conservation Orders

In the absence of understanding the ecological impacts of water abstraction, the values of the Rakaia River were protected by the 1988 NWCO using a flow harvesting formula centred on the river's 7 year mean monthly low flows measured at Fighting Hill. The minimum flows were adopted for hydrological convenience rather than biological understanding, but they worked well enough for twenty years.

The 2013 WCO Amendment altered the flow harvesting formula. It ignored water that had been used since November 1914 for generating electricity that was returned to the natural flows.

By the construct of "storing water" in Lake Coleridge and by greatly increasing the amount of the Wilberforce River flows diverted into the lake, over 40% of the entire Rakaia River catchment was captured for irrigation.

The deception that "alpine" water was somehow disconnected from the downstream catchment helped sell the project.

It is now evident to experienced anglers that the Rakaia River NWCO 1988, amended 2013, no longer protects the values of the Rakaia River. (Don Jellyman, NIWA, 2022).

How do WCOs fare in the NBE Bill?

Part 6 Water and contaminated land management. Subpart 1 – Water conservation orders

Clause 383 (2)(d) causes problems for submitters in this and many other New Zealand statutes. 20 working days is an inadequate time limit to make clear considered submissions.

Clause 397 Relationship between plans and water conservation order
397(2) "when considering an application for a resource consent, a consent authority must take into account any relevant water conservation order"

The NZFFA recommends amending this to read "when considering an application for a resource consent, a consent authority must take into account the **purpose of** any relevant conservation order".

The NZFFA makes this recommendation after the Canterbury Regional Council issued consents to develop the margins and in-river islands of the Rakaia River for agricultural use, to carry out river works for a period of 20 years, to dispose contaminants on to land, and to divert the natural channel of the North Rakaia River after the Rakaia River NWCO 1988 came into force. It is not the effect of any one

consent, but the cumulative effects of the many consents issued that has impacted negatively on the Rakaia River's values.

[The NZFFA supports the submission of The Land the Law Forgot in their concern for braided rivers such as the Rakaia River]

3. Freshwater “ecological integrity”

Part 6 Subpart 2 – Freshwater farm plans (399 to 411) seeks to manage the effects of intensive farming on freshwater – diffuse pollution.

In Canterbury water zone committees have set limits to manage diffuse nitrate leaching that bear no relationship to protecting the integrity of freshwater ecosystems. (8.5 mg/L NO₃-N).

This has been redressed by the revised August 2020 NPS FM standard for nitrate, (DIN) in rivers.

The NZFFA recognises the tension between the need for a healthy economy and healthy freshwater environments & public health. This issue has divided the Canterbury community.

The NZFFA is concerned that to date there is no evidence that Freshwater farms plans have achieved their objective within the Canterbury region.

The NZFFA is concerned that the window for reversing the pollution of Canterbury's groundwater will be lost if greater progress is not made.*

*The NZFFA has conducted its own monitoring of surface and groundwater in Central Canterbury for the past two and a half years.

The NZFFA has learned that soil type, the degree of connectedness of groundwater to Canterbury's large braided rivers, climate, and season, are more important moderators than the 190 kg/ha annual limit for N applications.

NZFFA monitoring has detected broad bands of high nitrate in groundwater linking sub-districts of lighter land suggesting more rapid underground connections than we have been told by Ecan scientists. (Underground “streams”)

Farm plans without understanding and flexibility seem unlikely to achieve their objectives.

4. Farming in freshwater

MPI has recently subsidized the development of the first land based aquaculture facility in New Zealand.

<https://alpinesalmon.co.nz/2022/10/13/mt-cook-alpine-salmon-to-build-innovative-land-based-salmon-farm-in-twizel-region/>

The NZFFA is concerned that there appears to be no specific legislation in the NBE Bill relating to fish farming in freshwater.

A visit to the Fisheries New Zealand website reveals all that is required is a general consent from the regional council to take and discharge water and that land based aquaculture must be a permitted activity.

In light of the amount of content in the MBE Bill covering coastal marine aquaculture it seems timely that the committee consider the implications of land based aquaculture using freshwater.

The NZFFA is concerned that the origins of salmon farming in New Zealand, which began with permission for ocean ranching, quickly became an ad hoc grab for freshwater resources; sites and wild salmon, from which the recreational salmon fishery has never recovered. (Jennifer Haworth, 2010).

This new aquaculture innovation justifies greater scrutiny commensurate with the uncertainty and risks to the values of recreational angling and to native fish.

Public notification of applications would seem to be a minimum in the absence of established practices.

5. Consents

Consents exempt the holder from their common law liability for non complying activities for a fixed term. As such they confer an advantage to the consent holder over the rest of society.

Consents allow private profits and public pollution.

Because of this the NZFFA recommends greater participation by the public. Non-notified hearings are undemocratic except for the most routine and least harmful activities.

When for whatever reason regional councils fail to monitor and enforce consents, compliance the NBA will become as meaningless as the RMA has proved to be.

The NZFFA judges this as the weakest link in the laws intended to protect the environment.

The NZFFA would be happy to relate unsatisfactory experiences stemming from reporting non-compliance. In the interests of privacy the details are best kept from this written submission.

Conclusion

The New Zealand Federations thanks the Chair and Environment Select Committee for the opportunity to comment on this Bill.

We hope our submission assists the Committee in its endeavours.

Dr Peter Trolove
President
New Zealand Federation of Freshwater Anglers

References

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A submission to the NBE Bill from “The Land the Law Forgot” group of NZ scientists

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