



Briefing for the Incoming Minister of Conservation,
Hon Tama Potaka and
Minister for Hunting and Fishing,
Hon Todd McClay



Environmental
Defence
Society

December 2023

- SEVEN** Support the Department to play a lead role in marine protection and oceans management, continuing its input into marine decision-making and policy development
- EIGHT** Support passage of the Hauraki Gulf Tikapa Moana Marine Protection Bill into law as soon as possible to create a network of marine protected areas in the Hauraki Gulf
- NINE** Support the establishment of Hauraki Gulf Bottom Fishing Access Zones as a transition measure towards phasing out seabed damaging fishing methods
- TEN** Ensure any changes to the control and management of hunting and fishing adopt an evidence-based approach, proceed with caution, and only follow a detailed review of relevant legislation
- ELEVEN** Ensure indigenous biodiversity and conservation values are robustly protected from mining impacts by banning mining on conservation land
- TWELVE** Ensure a legally compliant review of stewardship land
- THIRTEEN** Establish a regular Ministerial meeting with the 5 key national ENGOs (EDS, Forest & Bird, WWF, Greenpeace Aotearoa and Fish & Game)

EDS's biodiversity and conservation work

EDS is a strong advocate for biodiversity protection and conservation. We have worked constructively with the Department on conservation law and policy and have published extensively on the conservation system.

In 2015, EDS completed Aotearoa New Zealand's first comprehensive analysis of biodiversity loss. *Vanishing Nature* identified the drivers of such loss and practical solutions to addressing them. The report highlighted the enormity of the challenge ahead to preserve biodiversity. Importantly, it demonstrated the need for significant change.

EDS subsequently undertook a review of issues within the conservation system with support from the Department. Released in 2021, *Conserving Nature* concluded that the conservation system was no longer fit for purpose. It found an array of outdated legislation and a conservation framework that was poorly aligned, contradictory and unclear.

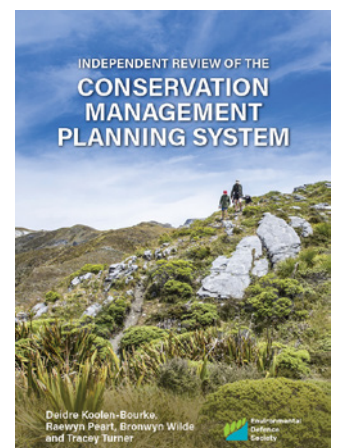
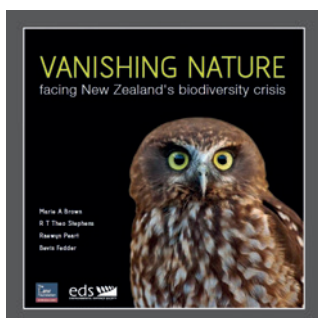
Responding to these deficiencies the government released a Conservation Law Reform Roadmap. EDS subsequently undertook detailed reviews of the Wildlife Act and conservation management planning system which were both published in 2023. They set out a series of options and recommendations for reform.

We are currently finalising a *Synthesis and Options Report* for reform of the overall conservation system which will be published early next year. It makes a series of recommendations aimed at modernising the conservation system.

EDS's work is underpinned by extensive engagement and interviews (more than 100) with frontline Department staff, conservation entities (including Fish and Game New Zealand, the Game Animal Council and the New Zealand Conservation Authority), scientists and stakeholders. Specialist ecological, planning and economic advice supported the work, including advice on potential new sources of biodiversity funding. Our work incorporates a case law review and a comparative study of international best practice.

This body of work underpins our commentary provided in this briefing. All of our work is available at <https://eds.org.nz/our-work/policy/projects/conservation-reform-project/>

EDS values the constructive working relationship we have with the Department and we look forward to engaging with you to support continued work to improve and modernise the conservation system.



ONE

Modernise the Wildlife Act 1953

The Wildlife Act is outdated and in urgent need of reform. Our review identified several serious defects, including:

- 000 Lack of a clear purpose or set of principles to guide decision-making, scheduling of species or management actions
- 000 Failure to distinguish between (and therefore prioritise) species that are threatened and those that are common
- 000 Patchy coverage of wildlife, with several taxa either wholly or partially excluded from the Act's protection, including indigenous plants, indigenous freshwater fish and most marine species
- 000 Lack of a principled or effective threat (including pest) management regime
- 000 Failure to adequately acknowledge tangata whenua relationships with wildlife
- 000 A defective permitting regime unable to accommodate modern uses and interactions with wildlife



Our options for reform are focused on enhancing biodiversity protection and bringing the country into line with international best practice.

We look forward to engaging with you on reforming the Wildlife Act and strengthening protections for indigenous and threatened species.

TWO

Modernise the Conservation Management Planning System

Policies and standards set out in conservation general policy, conservation management plans and strategies guide the Department's operational work, the concessions system and tourism management. However, only two national park management plans are current and a number have not been reviewed for more than 20 years. Approximately half of all regional conservation management strategies are out of date. The age, quality and content of planning documents is variable and the standards within them often unclear or even conflicting causing uncertainty and confusion for users. To address such issues we have provided recommendations that:

- 000 Streamline the planning process
- 000 Strengthen planning documents
- 000 Improve system alignment
- 000 Prescribe a clear role for Te Tiriti partners
- 000 Decentralise the planning process
- 000 Strengthen the role of Conservation Boards.



We would welcome the opportunity to work with you to modernise the conservation management planning system so it will deliver more benefits for stakeholders and better protect indigenous biodiversity.

Be a strong voice for indigenous biodiversity protection in the resource management system

The Minister for Conservation, supported by the Department, plays a crucial statutory advocacy role for indigenous biodiversity protection within the resource management system.

New Zealand Coastal Policy Statement

One of the most important roles the Minister for Conservation plays is monitoring the effect and implementation of the NZCPS and approving regional coastal plans. The NZCPS, and the oversight functions you have in relation to it, are crucial to the protection of our coastal environment and the many indigenous species that reside there. The ongoing implementation of the NZCPS is critically important, particularly in the face of climate change, as is Departmental advocacy for coastal habitat and biodiversity protection.

National Policy Statement for Indigenous Biodiversity 2023

The need for the NPS IB has been recognised since as early as 2000. Many of our at risk and threatened species reside on private land or rely on the remaining habitat and conservation values that exist there. Failure to implement the NPS IB and SNAs would have a heavy cost, including accelerated species decline.

EDS was represented on the Biodiversity Collaborative Group (which developed a first draft of the NPS IB) and the Stakeholder Reference Group for the New Zealand Biodiversity Strategy (which developed the current version). We have also produced a number of publications on the subject, most notably *Vanishing Nature, Pathways to Prosperity: Safeguarding Biodiversity in Development* and *Banking on Biodiversity: The Feasibility of Biodiversity Banking in New Zealand*.

Development of the NPS IB was initiated under the previous National government and has undergone a long process of stakeholder engagement and compromise including with farming interests. The focus now needs to be on supporting implementation rather than shifting the basic policy settings in the instrument itself. Key to that implementation is the identification of SNAs. We are extremely concerned that this process might be halted and existing SNAs revisited. We strongly oppose changes to the NPS IB which would stop the identification and protection of SNAs.

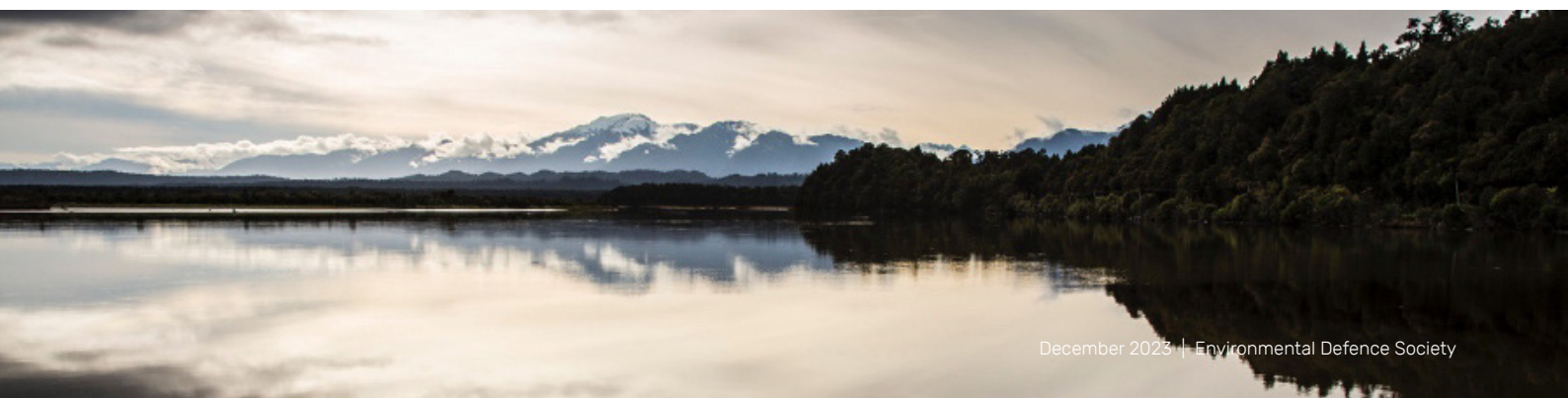
National Policy Statement for Freshwater Management 2020 (NPS FM)

The Department also has a critical role to play in freshwater management. Under s 6(ab) of the Conservation Act 1987, the Department has a duty and responsibility “to preserve so far as is practicable all indigenous freshwater fisheries, and protect recreational freshwater fisheries and freshwater fish habitats”.

The NPS FM had its genesis under the previous National government. Its central concept of Te Mana o te Wai prioritises the health and well-being of water bodies and freshwater ecosystems. This recognises that the nation’s social, cultural and economic well-being is fundamentally dependent on the health of our freshwater. We are concerned that “rebalancing” of the Te Mana o te Wai hierarchy is being contemplated. Recent reporting on freshwater quality shows continuing decline across several attributes. Freshwater plans which prioritise the health and well-being of freshwater above other uses, in accordance with Te Mana o te Wai, have the potential to turn that around. We strongly oppose any weakening of the NPS FM.

We urge you to provide a strong voice for indigenous biodiversity in the resource management system, by:

- 000 supporting ongoing implementation of the NZCPS***
- 000 advocating for the retention of protections for indigenous biodiversity under the NPS IB and SNAs and avoidance of any retreat in these areas***
- 000 supporting retention of the prioritisation of freshwater ecosystems under Te Mana o te Wai and advocating for the protection of freshwater indigenous biodiversity***



FOUR

Support biodiversity incentives

The Ministry for the Environment recently consulted on a biodiversity credit scheme to facilitate the flow of economic resources to landowners undertaking conservation activities. Some form of biodiversity incentive package is well overdue. A mechanism that enables financing at scale would complement implementation of the NPS IB and reward landowners for their hard work regenerating and protecting indigenous biodiversity.

We encourage you to support development of a biodiversity incentives scheme which would reward landowners for the indigenous biodiversity values they provide.

FIVE

Support the establishment of Marine Protected Areas and other measures in the Hauraki Gulf

Successive State of the Environment reports have highlighted ongoing marine degradation, especially in hotspots such as the Hauraki Gulf. The marine area is of enormous importance to New Zealand, supporting marine biodiversity, many threatened seabird and marine mammal species, a significant recreational fishing community and valuable commercial fisheries.

EDS is pleased to see that the National Party has committed to accelerating marine protection in the Hauraki Gulf without delay. The need to take action is becoming increasingly urgent, with the collapse of scallop beds, evidence of snapper, trevally and tarakihi starving, and increasing spread of the invasive seaweed *Caulerpa*.

Proposals for a network of MPAs within the Hauraki Gulf, first set out in the Sea Change Tai Timu Tai Pari Plan, have been subject to lengthy consideration and a public submission process. The *Hauraki Gulf /Tikapa Moana Marine Protection Bill* is currently before the Environment Select Committee which is slated to report back to the House by 29 February 2024. EDS lodged a comprehensive submission in support of the Bill but with a number of important amendments that should be made to it.

Proposals are also well advanced to exclude seabed impacting fishing methods (such as bottom trawling and Danish seining) from most of the Hauraki Gulf through the creation of bottom fishing access zones. EDS has also lodged a comprehensive submission on these proposals, supporting them as a transitional method towards full exclusion of seabed damaging fishing methods from the Hauraki Gulf, with assistance provided to commercial fishers to support the adoption of new methods.

We urge you to progress the Hauraki Gulf /Tikapa Moana Marine Protection Bill to create the network of MPAs in the Hauraki Gulf without delay. Passing the Bill should be high priority.

We also urge you to advocate for and support measures that reduce fishing impacts on seabed habitats in the Hauraki Gulf Marine Park, including use of Bottom Fishing Access Zones to transition away from benthic damaging fishing methods.



SIX

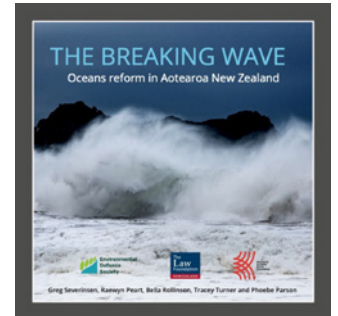
Provide a strong voice for conservation in the Oceans Secretariat and for oceans management

As an advocate for ecological values, the Department has a critical role to play in the marine space, both within the Oceans Secretariat and in oceans management more generally.

The need to provide a more integrated framework for oceans management has long been recognised. The current legal framework has developed over more than 50 years into an uneven patchwork of provisions. There are multiple pieces of overlapping marine legislation and some significant gaps in coverage. There is no overarching mechanism to help ensure that all legislation impacting on the marine environment is interacting coherently or producing optimal economic and environmental outcomes.

EDS has been conducting an in depth, first principles examination of the future of our oceans management system (which comprises all of the laws, institutions and tools that manage our marine area, as well as those that manage activities having impacts on it). In 2022, we published options for systemic reform in *The Breaking Wave: Oceans Reform in Aotearoa New Zealand*.

Our work in this area is continuing. We are focusing on further development of marine spatial planning (following on from the Hauraki Gulf exercise) and marine protected area reform as well as broader integrative measures such as an Oceans Commission and a national oceans strategy or policy. We will be producing two working papers during 2024 followed by a final report in 2025. We note the National Party's commitment to create an integrated oceans management policy and to consider establishing an Oceans Commission in the medium term.



We urge you to support the Department in continuing to be a strong voice for conservation in the marine space including through supporting measures to strengthen oceans management.

SEVEN

Adopt an evidence-based approach to regulating hunting and fishing that prioritises indigenous and threatened species protection

EDS recognises that some introduced species, such as deer and trout, constitute a highly valued hunting or fishing resource of social, cultural and economic importance. However, introduced animals can conflict with the needs of indigenous species. EDS's work in this area found broad agreement that *indigenous* species should be prioritised over introduced, where there is a conflict, and the interests of *threatened* species should be prioritised over those which are common.

There is also broad agreement on:

- 000 Eliminating harmful or invasive introduced species in areas of high indigenous biodiversity value and in areas prioritised for restoration purposes
- 000 Containing harmful or invasive introduced species to prevent further spread and any increased impacts
- 000 Controlling harmful or invasive introduced species broadly to minimise harm



Most also agree that integrated spatial planning, and an adaptive management approach underpinned by evidence-based decision-making, is necessary to reconcile competing interests. While EDS supports this approach, we emphasise that any decision to maintain populations of harmful or invasive introduced species as a resource, under an adaptive management framework, is a high-risk approach if it is not carefully proscribed and sufficiently supported. To be effective, adaptive management requires significant monitoring, expertise (capability and capacity) and resource. The current system and settings are insufficient to support this approach.

EDS has developed a range of recommendations to address potential conflicts between valued introduced and indigenous species. They include:

- 000 Amendment of conservation and wildlife legislation to make the protection of indigenous biodiversity and threatened species the highest order priority and overriding concern for all conservation and species managers. Hunting and fishing entities must also be conservation entities.
- 000 The introduction of a risk assessment regime, to objectively determine the degree of risk or threat posed to indigenous biodiversity by an introduced species or population, to inform management decisions and priority setting.¹
- 000 Establishing an independent Scientific Advisory Committee to oversee such risk and threat assessments and provide transparent science advice.
- 000 Strengthening the expertise base of the Game Animal Council and Fish and Game by making appointments based on scientific skills and expertise.

We urge you to ensure that any decisions made on introduced species are evidence-based and have the protection of indigenous biodiversity as an overriding consideration.

EIGHT

Continue support for Predator Free 2050 and increase control of introduced browsers

We commend the National Party's commitment to supporting Predator Free 2050 and wilding pine control. These are important initiatives that we are pleased to see continuing. However, introduced herbivores are also impacting on indigenous biodiversity and the ability of native ecosystems to sequester carbon. There is widespread acknowledgment by conservationists and landowners that these animals require more effective control.

EDS urges you to place a sharp focus on the control and management of introduced browsers alongside other invasive species.



NINE

Ban mining on conservation land to protect indigenous biodiversity

Mining on conservation land remains highly controversial.

In the last 5 years prospecting, exploration and mining activities have occurred on more than 150,000 hectares of public conservation land. Mining interests have also impacted the Stewardship Land Review, where reclassification has been prioritised where mining access applications have been received. There is little transparency and clear bottom lines around decision-making in this area. EDS supports a ban on mining on conservation land in consideration of the important biodiversity and conservation values it contains.

We ask that you support a ban on mining on conservation land.

Ensure a legally compliant stewardship land review

Stewardship land comprises a significant proportion of Aotearoa New Zealand's land area. It has high conservation values, specifically ecological and cultural values. Reclassification decisions must at least seek, but preferably improve upon, the intrinsic values of the natural and historic resources of stewardship land.

EDS's submission on the West Coast review identified serious errors in the Panel's draft recommendations. Our independent ecological assessment found that they were 'more wrong than right'. In most cases, insufficient protection was recommended which was not reflective of the high values present on the land. The methodology of the review process was also flawed and rife with conflicts of interest. We encourage you to read our submission on the review. It sets out the legal requirements which must be complied with when making any decisions in this area.

We urge you to proceed with the stewardship land review in a way that is legally compliant, both in terms of process and decisions.



We look forward to working with you during the coming term of government.

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