



Forest & Bird

TE REO O TE TAIAO | *Giving Nature a Voice*

Restoring nature in New Zealand

BRIEFING TO THE INCOMING GOVERNMENT

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You have the opportunity to transform our land, water and oceans

This was the year of the environment election. Over the course of 2017 public opinion significantly shifted as more New Zealanders realised nature is in crisis and agencies have failed to properly respond. You have a mandate to act.

Forest & Bird welcomes the new government's emphasis on protecting nature, and tackling climate change and other pressing environmental problems. This is reflected in the Coalition Agreement between Labour and New Zealand First, the Confidence and Supply Agreement between Labour and the Green Party, and in the environmental policies of the three parties forming the Government. Forest & Bird appreciates the early cooperation between the three parties over ending new mines on public conservation land.

The mandate you have from the environment election and much of the programme you have agreed on creates a strong basis for the repair and transformation of New Zealand's natural environment. You can set New Zealand on the path to restoring the remarkable diversity of life on these islands and surrounding seas. This briefing outlines some initial advice to you about how the Government's programme can help deliver this transformation.

New Zealand's leading conservation society

Forest & Bird is New Zealand's leading independent conservation organisation. We are a registered charity funded by our members and supporters.

Our 50 branches are throughout New Zealand in both urban and rural communities. They are on the ground restoring nature as well as advocating for the protection of our natural environment to our city, district and regional councils and national politicians. Our branches run pest control programmes and native plant nurseries, and engage with their communities through public talks, displays and field trips.

Forest & Bird's portfolio of conservation projects is perhaps the largest for a single non-governmental organisation in New Zealand with one hundred and eighty projects operating at a variety of geographic scales. Close to 95% of the projects are managed by branches. The remaining 5% are supported by the national body in partnership with branches or other external groups or individuals.

Through our Kiwi Conservation Club, we engage kids and their families, inspiring them to enjoy, understand and love the natural environment and to care for it. We have over 6000 kids in KCC and many ex-KCC members have gone on to establish science and conservation careers.

Forest & Bird campaigns at national and local level, advocating for pro-nature policy development and law reform, and represents nature in the Environment Court, Environmental Protection Authority boards of inquiry, and council planning processes.

Nearly a century after Captain Val Sanderson established Forest & Bird, we are still working for the protection and restoration of our wildlife and wild places on land, in fresh water, and at sea.

Forest & Bird's strategic priorities

Forest & Bird has a 25-year Strategic Plan developed with input from members, supporters and experts. This plan looks ahead five, 10 and 25 years - identifying conservation goals that will protect and restore nature in New Zealand. We aim for a future where ecological resilience is at the heart of everything we do.

A vision for 2040

By 2040 Forest & Bird wants to see a New Zealand where:

- Gross greenhouse gas emissions have been reduced by 70% or more from the 1990 baseline, New Zealand is carbon neutral, and has measures in place to increase biodiversity resilience and minimise climate disruption
- Primary industries are protecting and enhancing biodiversity
- Introduced rodents, mustelids and possums have been eradicated from all of New Zealand, and conservation land is secure from all significant pest and weed threats
- Existing conservation land is secure and well managed against threats
- Protected areas on land have been expanded to ensure that the full range of New Zealand's natural heritage is secure and well managed
- Our oceans are healthy and marine biodiversity is recovering
- Habitat and species loss has been halted, and biodiversity resilience is enhanced at landscape scales
- Indigenous biodiversity is flourishing in urban areas
- All indigenous freshwater and estuarine habitats and species are healthy
- New Zealand's indigenous species are protected and recovering throughout their migration range.

Our priorities

Forest & Bird has broad-ranging priorities over the next three years based on our Strategic Plan.

Safe climate and resilient economy

In the next three years, the work the Government does to bring in a Zero Carbon Act, introduce electronic monitoring of fisheries, reduce marine bycatch, clean up fresh water and better enforce the Resource Management Act will help start New Zealand on a track towards a more sustainable and resilient economy. A critical step is to separate regulatory and industry promotion functions within Government.

Nature in protected areas is secure and well managed

New Zealand has 3000 species in trouble and many of them are on public conservation land. Government action to increase funding for DOC, realign DOC with its legislative mandate, reclassify stewardship land, increase pest control and write appropriate management plans will all help deliver the security that nature needs to flourish. This will require going beyond the Predator Free focus on rats, possums and stoats to deal with threats from mice, hedgehogs, feral cats and large browsing mammals.

A predator-free New Zealand

Introduced predators and weeds are an immediate threat to New Zealand's indigenous biodiversity. Improving technology and knowledge are creating the opportunity to substantially reduce or eliminate this threat across large-scale landscapes. Our predator-free goal requires a strategy and funding now if it is to be achievable.

Greater protection of high-value conservation terrestrial habitats

Many areas of high conservation value remain outside public conservation land and many are under immediate threat of destruction. Rethinking high country management and land reclassification as well as better funding for Nga Whenua Rahui and the Nature Heritage Fund would transform the level of protection to nature.

Greater protection of high-value conservation marine habitats

New Zealand's marine environment is under significant pressure from economic and recreational use, pollution and bycatch. Keeping the South East Otago Marine Protected Areas Forum on track, creating the Kermadec Rangitāhua Ocean Sanctuary and a Taranaki Marine Mammal Sanctuary, and passing a new Marine Protected Areas law would be major steps forward.

Effective management of threatened species

A total of 3000 species on land and at sea are in trouble. Government action to increase funding for DOC, improve the draft Threatened Species Strategy, and ensure every species in trouble has a recovery plan would move New Zealand beyond 'triage' conservation to meaningful protection of habitats and recovery of threatened species.

Nature beyond protected areas is secure and well managed

Forest & Bird wants to see nature secure and well managed through a combination of effective national, regional and local planning rules and landscape-scale restoration projects. Urban projects on a landscape scale provide an opportunity to engage urban New Zealanders in conservation.

Protecting our freshwater and estuarine habitats

Freshwater and estuarine habitats are among the most threatened ecosystems in New Zealand. The public is demanding action to turn this around. Key elements of the Government programme can help start the process of transforming the state of our fresh water.

Our migratory species

Many of our indigenous species migrate through the region and across oceans. Forest & Bird works with partners in the Pacific and globally to protect and restore the habitats of our migrating indigenous species, and will be encouraging government agencies to also defend New Zealand's species throughout their migration range.

The state of our environment

3000 species in trouble

Behind New Zealand's 100% Pure tourism slogan lies the fact that nature is in crisis. The Department of Conservation's *Draft Threatened Species Strategy* released this year identifies 3000 species of native plants and animals classified as threatened with extinction (in serious trouble) or at risk of extinction (in some trouble). Around 800 are in serious trouble. A further 3000 species could not be given any conservation status because not enough is known about them.

Of the 168 different species of native birds in New Zealand, 93 are found nowhere else. Only one in every five of these species is in good shape and a third are in serious trouble. Turning this situation around must be a priority for the Government.

Extinction of New Zealand's species would not only be a huge loss for our country but also for the world's biodiversity. About 80% of our invertebrates, 70% of our birds, 84% of our freshwater fish, and 80% of our trees, ferns and flowering plants are unique to New Zealand.

Declining fresh water

Most of New Zealand's lowland rivers are unsafe for swimming, nearly half of monitored lakes contain more nutrients than they can cope with and three-quarters of our native freshwater fish species are listed as threatened or at risk of extinction (i.e. in serious or some trouble).

Urban and industrial pollution play a part in the story of poor water quality but the biggest factor in the decline is the growth of the dairy industry. The number of dairy cows has risen 69% in the last two decades to 6.5 million, leading to a rapid increase in nutrients and pathogens entering waterways and groundwater and the unsustainable use of irrigation in some areas.

The nutrients, mainly nitrogen, come from cow urine and from fertiliser used on dairy paddocks. In the past 20 years fertiliser use has increased 800%. There is a strong link between human and ecological health; New Zealand's rate of waterborne illness is twice that of the UK and three times that of Canada and Australia.

Wetlands once acted as a filter for our waterways but 90% of these have been drained. High quality water is largely associated with Department of Conservation managed lands – a reflection of the key role public conservation land plays in maintaining water quality.

The degradation of our fresh water is an issue of major public concern.

Changing climate

Climate change threatens New Zealand's nature, prosperity and way of life. New Zealanders will face impacts from climate change that include sea level rise threatening coastal communities, more extreme weather events, drought and disruptions to agriculture. The recent threat to potato crisp supplies was a small but symbolic example of the changes New Zealanders face.

The impacts will be devastating for nature too. Food chains will be disrupted, fragile alpine ecosystems will be damaged or destroyed and rising seas will squeeze out some species from coastal habitats. Changes to ocean chemistry and temperature will disrupt ocean systems, currents, weather and biodiversity. Climate change is likely to tip some species over the edge into extinction.

Forest & Bird is acutely aware that climate change threats facing nature also threaten people. Fire, floods, food availability, new pests and sea-level rise pose dangers to nature and people alike and New Zealand needs to play its part in reducing emissions and promoting resilience.

Depleted oceans

New Zealand's land mass is dwarfed by the ocean that surrounds us. Our marine Exclusive Economic Zone is the fifth largest in the world but both our management and knowledge of the coastal waters and oceans surrounding us are lacking. In spite of this lack of knowledge, decision-making in relation to the sea lacks a sufficiently precautionary approach.

Forest & Bird's Best Fish Guide shows that many of the fish we love to eat are not as sustainable as we would like to think. Half of our commercially fished stocks have no research on which to base an assessment of their population or a sustainable catch limit, so the health of these stocks is unknown. Of those fish stocks that are assessed, most are at only 20% of natural abundance, a level that has significant impacts on marine ecosystems. The scale of reduction in abundance from pre-fished stocks under the current fisheries management and its implications for other species is not well

recognised. The current fisheries management system encourages waste with large volumes of non-quota, damaged or lower quality fish being illegally dumped at sea by fishers. Some of our fishing methods cause long term damage to the seafloor and its associated fauna, and unnecessarily kill seabirds and marine mammals.

New Zealand is known as the seabird capital of the world but 90% of our seabirds and shorebirds are threatened with extinction, along with 28% of our marine mammal species and five out of six of our penguins. Taking into account the Ross Dependency, 13 of the world's 18 penguin species are recorded in the New Zealand region.

Our endangered New Zealand sea lions are being killed by squid fishing off the Sub-Antarctic Auckland Islands. Large numbers of seabirds – including albatrosses, petrels and shearwaters – are being killed by longline fishing. Most of these longline deaths are caused by mitigation measures not being used on fishing vessels.

An estimated 1000 of these birds were killed by longline fishing boats in the 2015/16 fishing year and in one case a total of 38 birds were killed by one fishing vessel. Set nets kill endangered penguins and other birds but are rarely monitored.

The Ministry for the Environment and Statistics New Zealand, in their 2016 State of the Marine Environment Report identified climate change as one of the biggest threats our oceans face. Ocean acidification threatens shellfish, coral and other calcifying species.

Warming seas are driving some species into cooler and deeper waters and disrupting food webs. Animals have to work harder and travel further to forage. Little is yet known about the likely impacts of climate change on the oceans and coasts but apart from the life they sustain, they are important in determining weather and climate as well as absorbing large amounts of the leading greenhouse gas carbon dioxide.

The response of Government agencies to nature's crisis

The OECD has warned New Zealand is at risk of breaching environmental limits; this will be a fundamental challenge for the Government.

Responding to this will require overhauling key Government agencies because agencies failing to do their job properly are second only to pests as the cause of nature's crisis. Behind most conservation

challenges lies an agency that is failing to properly take into account its impact on nature, or inadequately regulating those who are having an impact.

A critical job for the Government this term is to fix agency failure and get New Zealand's public service on track to protect our 3000 species in trouble. Particular care will need to be taken with the reform of MPI to ensure that existing problems of agency failure are not intensified in more specialised agencies. One symptom of this failure has been increased successful litigation by NGOs to compel central and regional government agencies to comply with the law.

Glaring examples of failure include:

- A draft Threatened Species Strategy that ignores most species in trouble
- The unlawful proposed Ruataniwha land swap
- A National Plan of Action on seabirds that has not reduced seabird bycatch
- Failure to prosecute blatant Fisheries Act offending
- Unlawful encroachment by private interests onto Crown lands such as river beds
- Ineffective resource management compliance and monitoring at a national, regional and local level
- Undermining the Forests Amendment Act regarding swamp kauri mining and exports
- Loss of DOC's advocacy function, including providing transparent technical advice
- A Bill to exempt mangrove removal from RMA oversight
- Extremely poor regulatory oversight by LINZ and tenure review outcomes that fail to achieve the objects of the Crown Pastoral Land Act.

A genuine whole of government approach to conservation and the environment is needed. All government agencies should prioritise the conservation of our unique native species under an ethos of environmental improvement, sustainability and ecological recovery.

This will require an overhaul of the key government agencies whose policies and actions are currently helping to drive many of these native species towards extinction, and increasing freshwater pollution and greenhouse gas emissions.

Forest & Bird welcomes the new Government's plans to introduce a Zero Carbon Act, a Climate Commission, comprehensive environmental indicators, climate impact analysis for legislation and a climate change board of public sector chief executives. This should extend to analysing the impact of legislation on nature and cross-sectoral public sector CEO coordination to achieve wider sustainability and nature protection goals.

Our public conservation lands and LINZ-managed lands are home to some of the world's most remarkable plants, animals and natural features. They are also the source of most of our swimmable rivers and lakes, and are at the heart of New Zealand's international brand.

Protecting our 3000 species in trouble

Revising the threatened species strategy

New Zealand has one of the highest numbers of threatened species in the world. Prior to the 2017 General Election the Government had a draft Threatened Species Strategy that set the goal of restoring populations of less than 5% of these species and preventing the extinction of 15%. This draft strategy falls well short of the goals of New Zealand's already adopted Biodiversity Strategy. It also fails to address the likely impact of the changing climate on already threatened species, and the implications for species management.

The Threatened Species Strategy needs realigning to the goals of the Biodiversity Strategy and must be accompanied by sufficient funding to allow the Department of Conservation to protect all species in trouble. A clear plan of action to achieve this within specified time frames is also required, setting out what resources would be needed for success. The impact of climate change on nature must be addressed, including developing strategies for different rates of climate change as measured by average temperature rises.

Achieving success requires the development of a whole of government strategy for threatened species with ambitious goals to implement the NZ Biodiversity Strategy. Such an approach would join up the actions needed across government agencies, science institutions, and regional and local government across all land tenures, freshwater bodies and in the oceans, including the Exclusive Economic Zone.

Recommendation to the Minister of Conservation

Revise the draft Threatened Species Strategy to ensure that every species in trouble progressively has a plan to turn around its decline and the resources to make the plan work while incorporating the impacts of climate change and ocean acidification.

Recommendation to the Prime Minister, Minister of State Services and Minister of Conservation

The Department of Prime Minister and Cabinet, the State Services Commission, the Department of Conservation and the Ministry for the Environment take the lead in developing a whole of government approach to saving New Zealand's 3000 threatened species.

National Policy Statement on Indigenous Biodiversity

At the request of the previous Government, Forest & Bird, Federated Farmers, Environmental Defence Society, iwi leaders, Forest Owners Association and a representative from the infrastructure/extractive industries are developing a National Policy Statement (NPS) on Indigenous Biodiversity under the Resource Management Act, plus complementary and supporting measures to help indigenous species and habitats thrive.

The NPS would provide direction to regional and local government over how to ensure that biodiversity is protected in planning processes. The NPS process needs to be well supported by technical scientific advice and information, including from the Department of Conservation, which needs to be responsive to specific requests for input.

Recommendation to the Minister for the Environment

Support the current process to develop a National Policy Statement on Indigenous Biodiversity and ensure it remains focussed on effective regulatory direction.

Recommendation to the Minister of Conservation

Ensure that the process for developing a National Policy Statement on Indigenous Biodiversity receives technical scientific input from DOC when requested.

Making Predator Free 2050 a success

Forest & Bird welcomed the multi-party support for the goal to make New Zealand predator-free by 2050. The goal had its genesis in a meeting at Forest & Bird's Ruapehu Lodge in 2012. The goal is aligned with one of Forest & Bird's strategic goals and has widespread support within New Zealand and from an overwhelming proportion of political parties in Parliament.

As well as advocating for greater predator control on public land and robust biosecurity and pest management measures, many of Forest & Bird branches carry out pest control all over New Zealand.

Achieving the predator-free goal will require adequate institutional arrangements and resources.

Currently there are some major gaps that need to be addressed:

- The predator-free goal lacks the strategy and resources to be achievable. Strategic direction and adequate funding will be needed to deliver the goal
- Insufficient baseline funding for the Department of Conservation to enable it undertake the scale of operations needed, including appropriate hapū liaison in Northland
- Over-reliance on participation by already stretched voluntary private sector, philanthropists, NGOs and local government
- Inadequate institutional structures. The Predator Free Trust and Company need to be reviewed to ensure they are aligned with a strategy to deliver Predator Free by 2050.

A conservation levy at the border would be an effective tool for generating revenue for the predator-free goal. Tourism demand in New Zealand during the peak season is so strong that the country struggles to cope. Increasing the cost of entering New Zealand by around \$50 per person is unlikely to impact on current strong demand.

Operations to manage pests on private and public land will create regional employment, as will boosting the Department of Conservation's core capacity.

Recommendation to the Ministers for Conservation and Finance

Fully fund the Predator Free New Zealand goal with a \$50 conservation levy at the border.

Recommendation to the Minister of Conservation

Review the strategy, funding and institutions of the Predator Free goal to ensure it can be delivered.

Reforming government to protect nature

Splitting industry promotion and industry regulation functions

As a matter of principle, the Government should not include both industry promotion and regulation within the same agency. This creates internal conflicts within the agency that are better resolved at a Cabinet level and undermines the ability of the agencies concerned to regulate to protect the public interest.

New Zealand trades on a brand of being clean and green. The public and market framing of 100% Pure is based on positive perceptions about the state of New Zealand's environment that are at odds with the reality. This is a significant strategic risk to New Zealand. Effective environmental regulation is critical to our economic success, and especially to exporters that rely on the clean green brand to access markets and secure a good price.

The mixing of industry regulation and promotion in the Ministry of Primary Industries has undermined public confidence in agriculture and fisheries. Proposed reforms of MPI are an opportunity to split the regulatory and industry promotion functions. The Government will need to take care that new more specialised agencies do not become more vulnerable to capture by the industries that they regulate, particularly in the case of fisheries.

The Department of Conservation was close to facing a similar crisis of credibility with its promotion of tourism and the proposed unlawful Ruataniwha land swap, both of which were contrary to its legislative mandate.

Recommendation to the Minister of State Services

Review the functions of government agencies with a view to separating industry promotion and regulation functions so that no agency does both

Recommendation to the Ministers of Forestry, Fisheries, Biosecurity and Agriculture

Reform the Ministry of Primary Industries to ensure neither the ministry nor its successors are both an industry promoter and regulator.

Recommendation to the Minister of Conservation

Restore the Department of Conservation’s core legislative mandate, including its advocacy function and the hierarchy of conservation, recreation and tourism.

Reforming the “no surprises” policy

The civil service “no surprises” rule has become distorted in recent years in ways that undermine the public service’s political neutrality and potentially the quality of decision-making. Originally designed to ensure ministers were not caught unawares by developments in ministries and government agencies, it is now interpreted as helping ministers avoid embarrassment and sometimes as protecting their political interests.

This change in interpretation undermines the public service’s political neutrality and its ability to provide frank and free advice to ministers. Government decision-making suffers if public servants feel constrained in the advice they can give ministers.

This perception within the public service that it must help ministers avoid embarrassment or political damage has also led to the purpose and operation of the Official Information Act being undermined.

Recommendation to Minister of State Services

The State Services Commission should review the no surprises policy to bring it into line with principles of a sound, open and neutral public service.

Official Information Act

The Official Information Act is a key form of public sector accountability but is under strain. The law adopted the principle of making more information progressively available but instead Government agencies have invested significant effort in seeking to limit public access. Procedurally, the current approach seems to partly reflect the Official Secrets Act that preceded it.

The Act is not serving its purpose because of the way it is applied by Government agencies and because the legislation has not kept up with changes to the political, economic, and social landscape since it was first introduced 35 years ago.

A Law Commission report in 2012 recommended 137 changes to the Act but was largely ignored by the Government.

One example of how Government agencies are undermining the Act's purpose is the tendency to make line-by-line deletions of text from documents on the basis that the words are out of scope of the original request. There is no basis under the Official Information Act for withholding information for this reason.

The very narrow approach being taken by the Public Service and Ministerial Offices to the release of information is having some significant bureaucratic consequences, including the time invested in OIA processing, frequent appeals and complaints processing and a large administrative workload for the Ombudsman.

The Ombudsman's Office has a backlog of cases because of a combination of inadequate funding and a failure of Government agencies to comply with the law. To its credit, in the last 18 months the Ombudsman's Office has shown an innovative approach to improving practice, but it needs greater resourcing.

Recommendations to the Prime Minister and Ministers of State Services and Justice

- *Change the "no surprises" policy so it is not used to prevent accountability for actions taken by Ministers and their agencies, or to increase bureaucratic workload in processing Official Information Act requests*
- *End the practice of 'out of scope' redactions*
- *Review the OIA processes of all agencies subject to the Official Information Act to ensure compliance*
- *Review the Official Information Act 1982 to ensure sufficient incentives for agency compliance, including requiring mandatory reporting of agency performance (including Ministerial Offices) and a penalty regime for agency non-compliance.*

More resources for oversight agencies

As officers of Parliament, the Parliamentary Commissioner for the Environment and the Ombudsman are independent of the government of the day and both play vital roles in protecting the public interest in environmental matters and in dealing with government agencies respectively.

The Ombudsman has received more official information complaints since 2012 and while there has been some increase in funding and improvements in process, more is needed to ensure these complaints are dealt with in a reasonable time frame. An allocation of funds to eliminate the Ombudsman's backlog would be useful.

The PCE's office, with a small staff of around 20, has played a major role in providing independent information and education about major environmental issues. As more complex issues emerge, including those related to climate change, it is crucial the PCE has the resources to give these the attention they need.

Recommendation to the Speaker and Officers of Parliament Committee

- *Provide an increase in the budget of the Ombudsman's Office, including a one-off allocation to remove the backlog of requests and an ongoing allocation to enable performance reporting of Government agencies.*
- *Invite the Parliamentary Commissioner for the Environment to propose an increased budget to address any workload pressures.*

Science for public benefit

Good access to science is needed for sound environmental decision making. However, good science has become less accessible to decision makers and the public. The Department of Conservation has withdrawn from resource management processes and in recent years has lodged much briefer submissions, including for the Ruataniwha Scheme, when it did not address water quality.

This has meant decision makers lack the conservation science they need to make sound decisions on all aspects of conservation. The robustness of resource management and tenure review decision-making has been weakened as a result.

Another source of expertise is the scientists who work for Crown research institutes, owned by taxpayers. The CRIs are increasingly searching for private funding and many have strict policies restricting what their scientists can say publicly. It is important that this important pool of scientific expertise can be harnessed when necessary for the public good, free of commercial or political pressures.

CRIs are vulnerable to capture by commercial and private funders. This means that when interests causing impacts on the environment commission work from CRIs, those institutes become unwilling or even legally unable to share the results of their work.

The result is that the balance of information made available to decision makers in statutory processes such as resource management planning and EPA processes, and Fisheries Act decisions tends to be weighted in favour of proponents of development. The risks to nature and wider society are under-represented in these circumstances.

Recommendation to the Minister of Conservation

Ensure that as part of its advocacy function the Department of Conservation makes all relevant technical information available to decision makers and that DOC technical advice is not “watered down” by DOC management or partnership decisions.

Recommendations to the Minister of Science Innovation and Technology

- *Review CRI processes on commissioning and releasing science to ensure the public interest is protected*
- *Introduce a requirement for CRIs to release “public good” evidence for statutory processes.*

Lifting DOC's performance

When the Department of Conservation was formed in 1987 it was a ground-breaking step forward in New Zealand's conservation efforts, which were previously spread across a range of agencies with limited overall coordination. Today the Department is struggling with inadequate resources and has strayed from its legislative mandate.

Our public conservation lands cover 8.5 million hectares – around one third of New Zealand including over half the South Island – and are the only refuges for many of our threatened plants and animals, as well as containing some of our outstanding landscapes and natural features. Yet most of this land is not managed to protect the values that led to it being included in the conservation estate.

As well as the trifecta of rats, stoats and possums, other predators, browsing pests, and weeds continue to plague many of these places. Only 23% of the conservation estate was treated with 1080 in the last three years and only about 500 out of 1000 identified sites of ecological significance (EMUs) have any active management, ranging in size up to 50,000 ha and covering between 1 – 1.5 million hectares. Sites with active management have been compromised because proposed management was only partially implemented in some cases.

Restoring DOC's legislative purpose

The Department of Conservation's fundamental purpose is set out in the Conservation Act. Sadly, at times DOC has lost sight of its core purpose and in some cases appears to have openly defied the Act.

Several years ago some DOC staff promoted a plan to allow the logging of windfall trees in native forest on the West Coast, despite the crucial importance of these trees to the forest ecosystem and the fact that forestry promotion on conservation land lies outside the Department of Conservation's functions and mandate. The current scheme is at risk of becoming a permanent amendment to the Conservation Act. One key function of DOC under the Conservation Act is to advocate the conservation of nature. According to the Act, the department has a function to advocate for the "conservation of natural and historic resources generally".

But this advocacy role has waned, especially in putting the case for conservation when proposals for inappropriate development are heard in resource management processes and other statutory forums. The Department is one of the primary sources of information about conservation values and threats, including scientific, professional and planning advice. The lack of its input denies decision makers access to critical information about risks associated with development proposals.

Because of an increasing reliance on external partnerships, decision-making within the Department has become unbalanced, appearing to be made on the basis of the interests of external partners rather than scientifically established conservation priorities. This is particularly problematic when private funding is used for initiatives. In some respects, the Department has started to act more like a charity than a Government agency and is a direct competitor with the charitable sector for funds and support.

The rapid growth of tourism and visitors to national parks has led to increased pressure on DOC to provide more visitor facilities, such as car parks, walking tracks, and toilets. There have been more proposals for commercial exploitation of national parks and other land under DOC's control, including helicopter flights into remote areas, and new tourist facilities such as gondolas and monorails. These threaten the Act's principle that recreation should be "fostered" and tourism "allowed" only where they are consistent with conservation.

It is notable that the last budget prioritised new funding for tourism over new funding for conservation, despite legislative priority being given to conservation.

Recommendations to the Minister of Conservation:

- *Ensure the Department of Conservation acts consistently with the Conservation Act, National Parks Act and other legislation and policies covering its operations*
- *Restore DOC's advocacy function, including in cases where exercising this statutory role may conflict with the development agenda of other government ministries and agencies*
- *Review DOC's partnerships arm to ensure that it is operating according to the purpose of the Conservation Act, that it employs sound public policy principles and delivers science-based conservation objectives.*
- *Review DOC's management of tourism to ensure it is consistent with the Conservation Act.*

Funding

The Department of Conservation must be realistically funded to carry out the work required to manage a third of New Zealand's land and prevent the extinction of the 3000 species that are in trouble. This requires progressively more than doubling DOC's core natural heritage budget to at least \$330 million annually within the next four years.

Despite some one-off spending on extra predator control in beech mast years, DOC's core funding for managing natural heritage has declined in real terms by nearly 17% in the last nine years. At the same time, native species have continued to decline, weeds have proliferated on DOC land and skilled and experienced staff have been laid off. The crisis in nature is matched by a crisis in conservation delivery.

Beyond the emergency "Battle for Our Birds" operations, all public conservation land should receive regular sustained predator control. This would only cost around \$50-\$100 million a year, based on roughly 7 million hectares receiving aerial 1080 control once every three years with an annual average cost of \$7-\$14 per ha. Further funds will be required for management of smaller sites not able to be managed by large landscape scale operations.

Some groups of threatened species may not be gaining enough benefit from current predator control work which primarily focuses on rats, possums and stoats. Some may be at greater risk from other pests such as mice, feral cats or hedgehogs. The Department's attention to large browsing pests such as deer, goats and tahr has declined in recent years and needs to be restored. Pigs are also destructive pests that need greater attention.

The "War on Weeds" also needs to be expanded from the focus on the "dirty dozen" worst offenders, which represent less than 4% of the 350 weeds that currently threaten nature. Weeds such as lupin, broom, poplar and gorse are urgently in need of control in some threatened species' habitats such as braided river beds and lowland dryland sites.

The value of native vegetation on public land as a reservoir of carbon and for soil and water conservation should be recognised in DOC's funding.

Forest & Bird notes the Government's intention to trial alternatives to 1080 and recommends that this not be at the expense of expanding current 1080 operations on public conservation land.

Recommendations to the Minister of Conservation

- *Request a bid from the Department of Conservation for the 2017-18 Supplementary Estimates to immediately lift its funding for pest control and to ease baseline pressures*
- *Seek a Supplementary Estimate to restore the Department's capacity for RMA and other statutory advocacy, such as under the EEZ Act*
- *Progressively increase annual natural heritage funding in Vote Conservation to \$330 million over four years*
- *Recognise the unique effectiveness of 1080 as a vertebrate toxin in New Zealand and increase the area subject to control.*

Reclassification of stewardship land

Around 30 percent of conservation land – 2.5 million ha or 9% of New Zealand – is stewardship land. This category of land was set up at the founding of DOC in 1987 as a “holding pen” pending assessment for specially protected status, or to be disposed of in a small number of cases where conservation values were low. At the same time, land of economic value for farming and forestry was mostly transferred into commercially run state-owned enterprises or privatised.

Due to a lack of funding and political will, DOC has been able to assess little of its stewardship land in the last 30 years. A small amount of land has been prioritised for reclassification in the past year but a wider reclassification is now 30 years overdue.

High value stewardship land includes the dramatic mountain scenery and habitats of rare and endangered species in much of the Southern Alps and rare and important ecosystems in New Zealand's lowlands and hill country.

Stewardship land has lower protection than other conservation land despite possessing high conservation values in most cases. Unlike other DOC land categories, stewardship land can be swapped to allow development proposals, such as irrigation dams, that would not otherwise be allowed under the Conservation Act.

Mining was approved on the Denniston Plateau, an area of stewardship land on the West Coast that DOC acknowledged as having high conservation values and being in the top 3% of DOC-managed land with 46 threatened species.

This type of outcome is antithetical to the conservation of New Zealand's natural and physical resources.

Recommendations to the Minister of Conservation

- *Instruct the Department to consult with stakeholders on appropriate criteria for permanent protection of conservation land, including current and potential conservation value, and priority areas for assessment*
- *Instruct the Department to undertake a comprehensive audit of stewardship land, starting with the highest priority areas, and provide specially protected status for all land meeting the criteria.*

Adding specially protected land and marine areas to Schedule 4 of the Crown Minerals Act

All specially protected land and marine areas should be added to Schedule 4 of the Crown Minerals Act. This includes all conservation parks, wilderness areas, ecological areas, marine mammal sanctuaries and world heritage areas. These areas have been recognised for their high conservation values and are protected from other types of damaging development. Mining is one of the most destructive forms of development and should be treated no differently from other inappropriate development on high-value conservation land.

Recommendation to the Ministers of Conservation and Energy & Resources

Add all specially protected areas to Schedule 4 of the Crown Minerals Act.

Fixing Land Information New Zealand

People think of LINZ as the agency that makes maps, but it also controls 8% of New Zealand's land area, around 2 million ha of the country's mountains, high country, lakes and rivers – including habitats for some of New Zealand's rarest species of animals and plants. LINZ is New Zealand's second largest land manager after DOC but is doing virtually nothing to protect at-risk nature in these areas.

Two of LINZ's major functions related to managing and controlling land are important for conservation: exercising control over activities on river beds, lakes and high country leases, and imposing conditions on the sale of sensitive land. Forest & Bird welcomes the new Government's intention to strengthen the Overseas Investment Act; better protection for nature and public access during the land sales process is urgently needed.

LINZ has largely failed to protect nature on the land that it manages. A recent review of its performance by the Environmental Defence Society found that its compliance regime was substandard and had been captured by those it was meant to regulate. Issues that the incoming Minister will need to address include problems with Overseas Investment Office approvals and oversight, and oversight of Crown lands management.

One example is that large areas of Canterbury's braided river margins have been taken over by neighbouring farms during the past two decades. In some cases this has been done though the sale of riverbeds and the granting of licences. Some encroachment has been illegal despite the Commissioner of Crown Lands having considerable powers to prevent and remedy the unlawful occupation of land. Forest & Bird is part of a group including the Department of Conservation, Environment Canterbury, LINZ and Federated Farmers looking at how braided rivers can be better protected. This was established after Forest & Bird raised concerns about the extent of encroachment. This process should be supported and kept on-task.

The Commissioner needs to stop issuing permits to legitimise encroachment and the Minister needs to review existing permits. These river margins are important habitat for endangered birds such as kakī, wrybill, the black-fronted tern and the black-billed gull as well as being in many instances the last refuges for native plant species on the Canterbury Plains.

Opportunities to protect high value biodiversity in the Mackenzie Basin have been lost as an

outcome of poor tenure review decisions and these are continuing to happen. Many tenure review decisions to date have failed to achieve the statutory objects of the Crown Pastoral Land Act.

There is still a significant opportunity for the Minister of Conservation and Lands to progress a high country drylands park in the Mackenzie Basin. If this is to be achieved, however, the way in which the tenure review process is carried out must urgently change.

Recommendations to Minister of Lands

- *Review LINZ's exercise of the powers of the Overseas Investment Office and Commissioner of Crown Lands to ensure that public values, including natural values and recreational access, are being protected and monitored for compliance.*
- *Rescind existing Cabinet minute (2009) and issue new high country instructions to LINZ to ensure a whole landscape approach is considered in tenure review and in discretionary consents.*
- *Ensure that the Crown Pastoral Land Act purposes are achieved in all tenure review decisions, in particular to ensure remaining significant inherent values are protected as required by the Act.*
- *Require the Commissioner of Crown Lands to undertake enforcement when Crown lands are unlawfully encroached*
- *Review the tenure of land managed by LINZ, other than pastoral leases, with a view to transferring to the Department of Conservation land of recreational and conservation value, such as river beds.*

Redirecting MBIE

MBIE has had a single focus on economic growth at all costs without sufficient attention to sustainability, especially the environmental underpinnings of the economy in crucial areas such as agriculture and tourism. MBIE regularly engages in resource management planning processes and submits in opposition to provisions designed to protect biodiversity where these would restrict access to minerals. Given New Zealand's biodiversity crisis, this practice by a government entity is outrageous.

Restructuring and renaming the ministry would refocus it on development that continues to contribute to New Zealand's prosperity in the long term. This would see the economy evolve away from declining and damaging boom and bust industries such as fossil fuels and promoting the continued growth of industries – such as dairy – which have breached or threaten to breach environmental limits.

A critical role for a refocussed or reformed MBIE would be to help ensure action is taken across Government to match New Zealand's environmental performance to its brand. This represents a major opportunity for our economy.

The proposed restructuring of MPI provides an opportunity to review both agencies together to more effectively separate regulatory powers from industry promotion and economic development functions.

Regional Economic Development

The regional economic development fund is an opportunity to help drive a transition in the regions from boom and bust and finite resource extraction industries to sustainable and enduring economic opportunities.

Major challenges to address include:

- Spreading the tourism load away from peak periods
- Locating tourism development in places that take pressure off public conservation land
- Providing targeted support to help regions dependent on unsustainable and economically unreliable industries like coal mining transition into more sustainable and enduring industries.

Proposals for major developments will need to be supported with proper environmental assessments (including climate impacts), and incorporate public participation and full RMA processes. New Zealand's experience with decision-making short cuts is that the taxpayer eventually bears significant costs when things go wrong. Ensuring proper environmental assessments, public participation and full resource management decision-making will help avoid costly mistakes.

Care will need to be taken that regional economic development funding is not used to frustrate the Government's objective of scaling back subsidies for irrigation.

Recommendation to the Minister of Regional Economic Development

Use the regional economic development funding to modernise regional economies rather than re-establish outdated and declining industries.

Special Economic Zones

There is presently a work programme supported by some in local government for special economic zones in which environmental, overseas investment and immigration rules would be weakened to encourage investment. These zones would allow faster approvals for development projects by riding roughshod over a range of laws.

Such economic zones have a reputation overseas for high levels of environmental degradation and exploited labour. Implementing them in New Zealand would likely breach trade treaty undertakings to not lower social and environmental standards for the purposes of attracting investment.

Papers received from MBIE under the Official Information Act show that there are serious pitfalls with the proposal and that officials and industry people consulted appeared unsupportive because of concerns about social licence and litigation risks.

Recommendation to the Minister of Economic Development

End the work programme on Special Economic Zones and any related proposals.

Reforming the Crown Minerals Act

In 2013 the Crown Minerals Act was substantially weakened by amendments including a significant change to its purpose clause to have the role of “promoting” rather than “regulating” mining. Other amendments enabled the Minister of Energy and Resources to make decisions jointly with the Conservation Minister about mining access to public conservation land, and added a new “economic benefits” consideration for decision-making on access.

The oil and gas sector Block Offer in 2014 demonstrated the implications of this law change with a subsequent escalation of mining and mineral exploration activity on public conservation land. This included many high-value areas, including South Island areas around Kahurangi National Park and down the West Coast, and North Island areas including Northland’s Russell State Forest and the Ruahine Forest Park. DOC access and resource consents have been granted for coal mining in the Escarpment area of the Denniston Plateau, with future consents likely to be sought in other parts of the plateau.

Recommendations to the Minister of Energy and Resources

- *Review the Crown Minerals Act to align it with the purpose and principles of the Resource Management Act*
- *Restore the role of the Minister of Conservation as sole controller of access to public conservation land*
- *Restore the Act’s purpose to manage rather than promote mining with due regard to the effect of mining and burning fossil fuels on climate change.*

Restoring the RMA and its functions

Forest & Bird welcomes the new Government's intention to restore public submission and appeal rights in the Resource Management Act and to promote improved enforcement.

Changes to the RMA were made in 2017 following a legislative process in which submitters' views were largely ignored, official advice was compromised, Ministerial intervention was overt and political expediency rather than principled policy-making prevailed.

These changes reduced public participation opportunities, attacked the Act's devolved decision making model and eroded environmental bottom lines. The undermining of these three pillars of the Act has reduced the likelihood that decisions made under the RMA process will achieve sustainable management.

Key changes that should be reversed are:

- The reduction in submission and appeal rights in both planning and consenting decisions
- Planning options that provide a Ministerial veto on plan content
- Opportunities for ministerial over-ride of local authority rules
- A poor codification of offsetting and compensation concepts.

The analysis in *Last Line of Defence* (EDS/New Zealand Law Foundation) provides clear evidence of significant problems within regional and local government with environmental compliance, monitoring and enforcement (CME). In the last 18 months Forest & Bird has also been reviewing and highlighting inadequate CME performance, primarily by regional councils.

Councils either give little priority to CME or are inadequately resourced to carry out this function, with some having no staff dedicated to this task. Problems also include interference by elected representatives and senior executives in compliance decision-making and inappropriate central government signalling to poorly resourced compliance sections within councils.

Poor CME has been a significant contributor to the loss of our biodiversity, especially in the high country and grasslands in areas such as Otago and Canterbury and wetlands in Southland where clearance and modification is occurring at an alarming rate.

The Ministry of the Environment should be instructed to step up its role in supporting councils to

ensure they meet their statutory responsibilities to protect indigenous biodiversity. Examples include requiring clear CME policies free of political interference, building CME capacity by providing resources, especially for complex cases, and recognising the value of CME officers through qualifications and ongoing training.

Forest & Bird would appreciate being consulted as the Government develops a programme to improve RMA enforcement.

National environmental standards and national policy statements ought to assist local authorities to ensure their processes and decisions achieve sustainable management. Unfortunately several that have come into effect or been consulted on in recent years have been focussed on avoiding consenting requirements or promoting inappropriate development, at the expense of environmental bottom lines.

The National Environmental Standard for Plantation Forestry 2017 needs to be reviewed to ensure it will achieve desired biodiversity and freshwater outcomes while enabling the forestry industry to continue to thrive. This is particularly important in light of the Government's plans to bolster and expand the forestry industry.

The proposed National Policy Statement for Marine Aquaculture should not proceed until its exceptions from environmental bottom lines are removed. The New Zealand Coastal Policy Statement, which is currently undergoing review, should be retained and strengthened.

Recommendations to the Minister for the Environment

- *Immediately reverse the 2017 legislative changes to the Resource Management Act that have compromised public participation opportunities, devolved decision making and environmental bottom lines*
- *Undertake a broader review of the Resource Management Act to ensure it is fit for purpose and leads the way in sustainable management of New Zealand's natural and physical resources.*
- *Instruct the Ministry for the Environment to provide practical assistance to territorial authorities and regional councils to perform their statutory CME obligations.*
- *Review the National Environmental Standard on Plantation Forestry, particularly as it affects biodiversity and fresh water.*

Reforming the Ministry of Primary Industries

Forest & Bird welcomes the new Government's intention to reform the Ministry of Primary Industries (MPI). As outlined earlier, MPI is conflicted between its regulatory and industry promotion roles and its public reputation has suffered as a result.

The consequences include uncontrolled fish dumping, opposition to marine reserves, a blind eye turned to aspects of swamp kauri mining and export, poor law enforcement and a failure to reduce seabird and marine mammal bycatch in the fishing industry. There are also serious concerns about the logging of native forests on private land. A critical requirement for a successful restructure will be to separate the regulatory and industry promotion roles.

Re-establish a Ministry of Fisheries focusing on marine ecosystems

Forest & Bird welcomes the new Government's commitment to safeguarding the healthy functioning of marine ecosystems and promoting abundant fisheries. MPI has started to consider ecosystem-based management and improved monitoring of fisheries. There is significant work required to develop an ecosystem-based model for fisheries management and Forest & Bird would be happy to assist both the Minister and Ministry.

MPI has established a new three-part programme to manage fisheries: fisheries management, fisheries science, and electronic monitoring and reporting. The new fisheries management division has some awareness of the problems MPI has with public credibility and the need to change.

This new division could form the core of a new Fisheries agency focussed on regulating fisheries for abundance under an ecosystem-based management model. For this to work, and to restore credibility in fisheries management, it will be essential that the new agency does not have a fisheries promotion function.

The confusion of MPI's regulatory and promotion functions has resulted in the ministry becoming too close to the industry it is meant to regulate. A series of MOUs between the ministry and industry since 2006 established joint management forums to decide on a range of MPI's responsibilities including research, compliance and management issues. In some respects the industry has more influence on the functioning of MPI than the other way around.

MPI's abdication of responsibility for management of some fisheries such as SNA1, the snapper fishery from North Cape to East Cape, to the fishing sector has resulted in research recommendations being ignored. A recovery plan includes no realistic mechanisms for increasing snapper natural abundance from as low as 7% in the Bay of Plenty to the government's target of 40% of unfished biomass.

In 2016 researchers from Auckland, Oxford and British Columbia universities released a paper estimating the New Zealand fishing industry had taken 2.7 times more fish since 1950 than official figures showed, indicating that dumping of unwanted fish at sea was widespread. Three MPI reports later emerged showing large volumes of dumping, evidence of an unreported Hector's dolphin death and unwillingness by MPI to prosecute offenders.

Another sign of the inappropriate relationship between MPI and the industry was the awarding by the ministry in 2015 of a contract to provide electronic monitoring, including cameras on fishing boats to Trident Systems, which is owned by fishing companies.

The High Court recently recognised that regional councils have a role to play in regulating effects of fishing that are not addressed by the Fisheries Act. Unfortunately, the previous Government sought to overturn that decision.

Recommendations to the Minister of Fisheries

- *Establish a new fisheries agency with responsibility for ecosystem-based management of fisheries without any industry promotion function*
- *Respect the High Court's decision on fishing control jurisdiction and look for ways to work with regional councils, community and environmental stakeholders and tangata whenua to achieve optimum sustainability of marine resources and ecosystems*
- *Develop a realistic recovery plan for SNA1 to achieve 40% snapper biomass and include non-fishing stakeholders in all consultation processes.*

New Zealand's biosecurity

The previous Labour-led Government made significant gains in biosecurity and promoted the integration of biosecurity for agriculture, forestry and nature. However, MPI's management of kauri dieback and myrtle rust has since become a serious concern. A refocusing under an independent Biosecurity New Zealand is needed.

MPI has been coordinating a programme to combat kauri dieback disease since 2009 but the disease has since continued to spread, threatening the existence of one of New Zealand's iconic native trees. For example, the number of trees infected in the Waitakere Ranges has more than doubled in the last five years.

The Kauri Dieback programme, which received \$26.5 million in funding over four years in 2014, clearly has not been working and the disease has continued to spread throughout Northland, Auckland and Coromandel. There are serious questions about how wisely the public money has been spent.

The management of the programme needs to be drastically overhauled and more funding made available to find effective means of halting the spread of kauri dieback. Forest & Bird is concerned that the kauri dieback programme might be symptomatic of wider problems.

Recommendations to the Minister of Biosecurity

- *Re-establish Biosecurity New Zealand as an independent agency with a focus on biodiversity threats as well as public health and economic threats*
- *Independently review management of the Kauri Dieback and Myrtle Rust programmes and boost funding to the responses.*

A sustainable economy

Taking responsibility for climate change

Climate change will have significant effects on native species, further threatening their survival. The impact of climate change on our already vulnerable species must be taken into account in all aspects of threatened species planning.

New Zealand is lagging behind in efforts to reduce emissions. Although New Zealand produces only a tiny proportion of the world's greenhouse gases because of its relatively small size, it has the fifth highest per capita emissions in the developed world. While 80% of our electricity comes from renewable sources, emissions from agriculture – 49% of New Zealand's total – and transport have driven our emissions higher.

New Zealand's gross emissions grew by 24% between 1990 and 2014 and net emissions, which include the offsetting impact of forests, rose 64%, according to the Ministry of the Environment's Greenhouse Gas Inventory. The much higher rise in the net figure reflects the higher rate of harvesting of exotic forests in 2015 compared with 1990.

At the Paris Climate Conference, New Zealand pledged to reduce net emissions 11% below 1990 gross emissions by 2030 and 50% by 2050. These figures are confusing, however, because the reductions are in net emissions, compared with gross emissions in 1990.

A report by the Parliamentary Commissioner for the Environment, Jan Wright, showed New Zealand's pledges under the 2016 Paris agreement in net emissions terms would be 67% higher in 2030 compared with 1990 and 6% lower by 2050.

The Climate Action Tracker, run by international research organisations Climate Analytics, Ecofys, and NewClimate Institute, says New Zealand's pledges mean emissions from all sectors, except transport, are projected to continue growing until 2030. It rates the emissions target as insufficient – if reflected globally – to hold global warming below 2 degrees Celsius, let alone 1.5 degrees as targeted under the Paris agreement.

Pass a Zero Carbon Act

Forest & Bird supports the passing of a Zero Carbon Act, which would require legislation for a legally binding target of net zero carbon emissions by 2050 or earlier. An independent Climate Commission would be established to provide expert advice on what measures would be needed to reach the target. Five-year emission limits would be set as stepping stones on the way to the zero target.

Making the ETS work

The Emissions Trading Scheme was established in 2008 to provide incentives to reduce emissions. However, exemptions – especially agriculture which accounts for nearly half of New Zealand’s emissions – subsidies and a heavy reliance on foreign carbon credits, many of them from suspect sources, to balance the books means the ETS has provided little incentive to change behaviour. A major difference between New Zealand’s ETS and similar schemes in other countries is our ETS has no limit on the number of carbon credits that can be used to offset emissions.

For the ETS to work, the settings have to be changed to provide real incentives for industries - including agriculture - and consumers to reduce their carbon footprint. Necessary setting changes include the removal of subsidies and the setting of an emissions cap. It is worth noting that actions in the agriculture sector to address water quality and climate change would be mutually reinforcing.

Climate change will have significant impacts on native species, further threatening their survival. The impact of climate change on our already vulnerable species must be taken into account in all aspects of threatened species planning.

Ending coal mining

As part of New Zealand’s commitments to tackling climate change, the transition away from mining and burning coal needs to start now. Mining coal threatens some of New Zealand’s unique landscapes and most threatened species. Burning coal threatens the future of every living thing in New Zealand and worldwide. Whether our coal is burned in New Zealand or elsewhere, the climate change impact is the same.

Coal cannot be part of our long term future and the boom and bust economics of coal, especially as

coal use declines throughout the world, makes it a poor economic prospect for communities on the West Coast and elsewhere. Mining coal on the West Coast gives the lie to New Zealand's 100% Pure slogan that attracts huge numbers of local and overseas visitors to see the natural beauty of the region.

The shrinking of the Fox and Franz Josef glaciers are the most obvious testaments in the region to the rapid changes happening to our world because of climate change. The previous Government promoted new mines on the Buller plateau, home to threatened species including the great spotted kiwi, fernbird, West Coast green gecko, giant carnivorous powelliphanta snail and rare plant life.

Recommendation to government ministers

The Crown Minerals Act should be amended to ensure so no new coal mines are approved

A new Forest Service

The Forestry Industry and a range of NGOs have an ongoing partnership in the form of the New Zealand Forest Accord. This has enabled significant progress in improving the environmental performance of New Zealand's exotic plantation forestry as well as setting some baselines for performance.

A well designed Forest Service could offer benefits for erosion control, emission reductions, long-term forestry sector survival and more sustainable land use. A poorly designed Forest Service could result in further harm to nature.

Lessons from New Zealand's experience with the old Forest Service abolished in 1987 and current agencies which combine industry promotion and regulation functions show that a new Forest Service:

- is unlikely to be an effective manager of public conservation values and should not in general have access to public conservation lands or lands of conservation value
- should not be both an industry regulator and industry promoter. This means it should not manage the Forests Act's indigenous forest permits, regulate swamp kauri exports or set standards for forest management

Ministers should recognise that most public forestry land was privatised as part of structural government reforms in 1987 when public conservation land and land of value for forestry were separated. Suitable land for forestry is unlikely to exist on public conservation land except in very limited circumstances.

There is a potential role for a Forest Service to accelerate the Permanent Forest Sinks Initiative by facilitating the conversion of more than 10 million ha of suitable marginal farmland into permanent native forests. The rules applying to permanent reforestation need to be reviewed to ensure that incentives are set correctly and that land managers can receive credits for plantings and forest restoration. As part of this work, the new ministry will need to adopt principles of eco-sourcing (local sourcing) to maintain local genetic integrity.

Recommendations to the Minister of Forestry

- *Ensure that the new forestry service acts in accordance with the New Zealand Forest Accord*
- *Separate forestry regulation from operations and forestry promotion*
- *Revisit the National Environmental Standard on Plantation Forestry as discussed above*
- *Develop a work programme to accelerate the establishment of permanent native forest on marginal land*

Protecting the high country

The South Island high country is a magnet for tourists from New Zealand and overseas as well as containing unique ecosystems. The Mackenzie Basin alone is home to 68 rare and endangered species of birds and plants and is the last place where it is possible to create a dryland lowland park.

Management of the high country has reached a critical point with the rate of loss that means opportunities for protecting what remains are now closing. There needs to be an urgent change in the way tenure review and discretionary consents managed. There should be a pause in tenure review and issuing discretionary consents until the Ministers of Conservation and Lands are confident that significant inherent values are being protected, otherwise Ministers risk losing irreplaceable values before reforms can be implemented. This reform programme is likely to require legislative change.

Creation of a Mackenzie Basin Conservation Park

The tawny dryland landscape of the Mackenzie Basin is quickly being transformed into bright green pasture under irrigation. The main causes have been poor pastoral lease tenure review outcomes, resulting in land with significant inherent values being freeholded, and inadequate district plan controls. LINZ has also issued discretionary consents on crown leases that have resulted in significant loss of biodiversity values.

The development controls that previously existed under the pastoral leases have been removed for freeholded land, some of which has been subdivided at huge profit for the new owners.

Earlier this year the Environment Court found the intensification and agricultural conversions in the Mackenzie Basin were inappropriate and unsustainable. A review of current policies has been agreed to by the central and local government agencies involved but it is essential that the process of tenure review be suspended until adequate protection measures are developed.

The Mackenzie Agreement was signed in 2013 as the result of a collaborative forum, which recommended to the Minister and relevant Councils the protection of 100,000 ha of land.

A trust set up following the forum has made little progress towards implementing the recommendations of the forum and Forest & Bird has little faith it can achieve adequate protection of what remains of this highly vulnerable landscape.

As a result of an entirely inadequate policy response by central, regional and local government, there are now diminishing opportunities to protect the landscape and biodiversity values of this unique and special place. Forest & Bird considers urgent action needs to be taken to halt any further loss.

Recommendations to the Minister of Land Information and Conservation

- *Implement a pause on tenure review and any CPLA discretionary consents in the high country until a review of the Crown Pastoral Lands Act and the Lands Act and their administration and the necessary changes are made*
- *Create a Mackenzie Basin Conservation Park*

High Country Pastoral Leases

The high country is important to New Zealand for ecological, economic and cultural reasons. We value the dramatic and beautiful near pristine landscapes, rivers and lakes, unique nature and its capacity to yield water and store carbon. The high country provides opportunities for specialised merino and other products, and tourism ventures which alleviate tourism and recreation pressures on National Parks.

Many pastoral leases are unlikely to go through tenure review. The Crown is likely to be a long term owner of pastoral leases, including lands that have marginal economic value but high landscape and conservation values. The Crown needs to consider how to best manage these leases to protect their natural values.

The administration of the Crown's pastoral leases and high country tenure reviews fails to encourage ecological management, protect conservation values and secure public access and enjoyment. The administration of the Act is focussed on process rather than quality outcomes, and economic incentives create pressure for development.

Too many high country tenure reviews have failed to return to full Crown ownership and control land with significant conservation values. They have instead relied on extensive covenants which fail

to provide adequate public access and sufficiently protect values, while incurring high ongoing transaction costs for the Department of Conservation. LINZ frequently seeks private ecological advice rather than DOC's technical expertise, which needs to be led by those with technical and operational expertise.

Recommendation to the Minister of Land Information and Conservation

- *Issue directions to the Commissioner of Crown Lands and Department of Conservation that all tenure reviews must protect significant inherent natural values, preferably by their return to full crown ownership and control*
- *All recommendations and decisions by LINZ and DOC staff must promote ecological management and reflect the desirability of protecting inherent values to achieve the outcomes of the NZ Biodiversity Strategy. Forest & Bird considers that outcome is provided for in the Crown Pastoral Land Act, but a legislative amendment may be appropriate for clarity.*
- *Investigate providing incentives for managing Crown Pastoral lands to protect conservation values and enhance the high country's benefits for tourism, water yield and quality, and carbon sequestration.*
- *Require LINZ to ensure that active management conditions of pastoral leases, such as wilding pine control, are being complied with.*

Protecting our fresh water

We all rely on clean fresh water for our health and wellbeing, economic benefit, and recreation. More than two-thirds of our native freshwater fish species are listed as threatened and if present trends continue, these threatened species will be extinct by 2050.

In 2013 the Ministry for the Environment released indicator reports on river conditions and swimming suitability. The reports showed that 61 per cent of monitored waterways in New Zealand were of "poor" or "very poor" quality. Many other indicators illustrate the growing crisis for our fresh water:

- More than 90 per cent of our lowland rivers are polluted, with as many as 36,000 cases of waterborne disease reported each year
- More than 44 per cent of our lakes are polluted by excessive nutrients, which cause algal growth
- 68 per cent of native freshwater fish species are threatened
- 68 per cent of freshwater ecosystems are also threatened
- Groundwater nitrate levels are rising, with 39 per cent of monitored sites nationally showing increases
- Most harbours and estuaries are choked with sediment
- 90 per cent of our wetlands are gone.

Urban and rural pollution are both major threats to freshwater quality. The loss of wetlands and the degrading of streams have caused a huge sediment problem in coastal waters and estuaries nationwide and the loss of critical habitats. Sediments and pollutants are suffocating ecosystems important to fisheries.

Forest clearance and "slash" can also cause significant problems but the biggest causes of worsening freshwater quality are dairy intensification and increased use of fertiliser. In the last 20 years there has been an 800% increase in the use of artificial nitrogen fertiliser, raising the nutrient loading in many of our rivers to the point where New Zealand is in the top 10 OECD countries for freshwater nitrate levels.

Current threats to ecosystem health through decreased freshwater quality and quantity include:

- Diffuse pollution from agriculture intensification suffocating and contaminating water bodies
- Dredging, encroachment, channelisation, vegetation clearance and hydro schemes destroying river habitats
- Over-extraction and over-allocation of surface and ground water
- Draining of wetlands for development
- Lack of consistency and accountability in regional councils' monitoring, compliance and enforcement work.

Parliamentary Commissioner for the Environment Jan Wright's report *Water Quality in New Zealand* (2013) looks at the huge growth in cow numbers over the past decade and further growth forecast in line with the previous government's goal of doubling agricultural exports by 2025. The report says practical and policy interventions are needed if a freshwater crisis is to be averted.

In the absence of an urgent change of approach on dairy expansion and intensification, there will be continuing deterioration in water quality in many catchments across the country, particularly in Canterbury and Southland. This will cause increased human disease, loss of clean drinking water supplies and ecological damage.

Continued government support for intensification of agriculture has undermined good but highly costly government clean-up initiatives such as Te Waihora Lake Ellesmere.

The regional data on water quantity is inconsistent and largely inaccurate. Furthermore, regional councils have a variable understanding of how ground water and surface water interact in their area. Our ability to manage water budgets is limited.

National requirements to phase out over-allocation along with an industry desire for more water have resulted in industry and regional councils looking to water storage dams and aquifer augmentation.

These very costly infrastructure projects are often environmentally harmful. In addition to direct impacts, the resulting intensification of land use and increased nutrient discharges cause water quality degradation. These impacts are not necessarily considered holistically in consenting processes for water storage, such as those for the Lee Dam in Tasman.

Government guidance on appropriate and inappropriate augmentation would be welcome to avoid unnecessary regional council expenditure on projects that are not going to be acceptable, and to ensure environmental objectives are not compromised.

Management of nutrient discharges requires a way of allocating a discharge allowance based on instream limits back to individual land holdings. No standard way of doing this is currently available, and attempts to allocate allowances are being hotly contested in regional planning processes around the country with variable outcomes. A standardised approach to nutrient discharge allowance allocations that is equitable and environmentally sound is required if instream freshwater objectives, limits and targets are to be achieved.

Over the past 12 months Forest & Bird has highlighted poor regulatory performance by regional government and welcomes the Government's intention to improve enforcement of the Resource Management Act. Forest & Bird has also highlighted the impacts of lawful and unlawful encroachment onto public river beds and would welcome the Crown exercising its power to protect river beds.

Recommendations to the Minister for the Environment

- *Strengthen and implement the National Policy Statement on Freshwater Management (NPSFM) and its associated National Objectives Framework based on human and ecosystem health limits.*
- *Direct MfE to research and provide direction on the most equitable and environmentally sound nutrient discharge allocation methods to achieve instream limits and targets.*
- *Direct MFE to research and provide direction on the appropriateness of augmentation (see also Protecting our Wild Rivers below)*
- *Address the performance of regional councils in improving water quality through mandatory quarterly reports from councils to the Ministry for the Environment on achieving freshwater limits, targets and objectives, as well as enforcement, breaches and monitoring.*
- *Direct MFE to engage further in local authority planning processes to ensure that the NPSFM is being implemented by engaging with councils at the plan drafting stage and participating in planning processes through the submission and appeals process. This role is currently largely left to NGOs.*

Recommendations to the Minister of Land Information

- *Cease issuing any permits for activities on beds of braided rivers managed by LINZ*
- *Act on any encroachment onto public river beds managed by LINZ.*

Economic tools to improve freshwater management

As with emissions trading, the government to date has preferred to place the burden of environmental clean-ups on taxpayers, rather than polluters. Taxpayers are funding a significant proportion of freshwater clean-ups, and the cost of non-economic irrigation proposals.

These subsidies to agriculture distort land values and drive unsustainable land use. Taxpayers are in effect paying three times: firstly to subsidise land use intensification, secondly in declining water quality, lost recreational opportunities and illness, and thirdly to pay for clean-ups.

As well as imposing costs on current members of society, the subsidies to agriculture are imposing costs on future generations. The distortion in land values also undermines the Government's forestry objectives by pricing land beyond economic levels for forestry.

Because of the diversity of subsidies to agriculture, care will need to be taken to ensure that reduction in some irrigation subsidies do not simply result in rising subsidies elsewhere. Current subsidies include the Freshwater Improvement Fund, Sustainable Management Fund, Crown Irrigation Investments Limited Funds, Irrigation Acceleration Fund and possibly the new Regional Development (Provincial Growth) Fund.

Recommendations to the Ministers of Agriculture and Environment

- *Implement a prompt winding down of Crown Irrigation Investments Limited Fund and the Irrigation Acceleration Fund*
- *Invest in an Agricultural Transition Fund to support the country's shift away from environmentally-damaging farming methods by redirecting \$480 million of public money earmarked for irrigation.*

Recommendation to the Minister of Forestry

Engage with Ministers of Agriculture and Environment to address agricultural subsidies that inflate land values

Recommendation to the Minister of Regional Economic Development

Ensure that the new Regional Development (Provincial Growth) Fund cannot apply to new irrigation schemes or supplement funding for previously funded but incomplete irrigation schemes.

Recommendations to the Ministers of Finance and Environment

- *Introduce polluter pays systems for fresh water*
- *Introduce a resource rental on exclusive takes of fresh water*

Protection of our wild and other rivers

Forest & Bird supports renewable energy. However, our remaining wild and braided rivers are a scarce and non-renewable resource. Once a hydro dam is built on a river, its wild character and associated ecosystem services are lost. There should be no more dams that would impact on the remaining wild or braided rivers in New Zealand.

A 2011 New Zealand Conservation Authority report, *Protecting New Zealand's Rivers*, concluded that New Zealand rivers in general are under increasing pressure from development and intensive agriculture. There has been a failure by successive governments to protect them from pollution, excess water extraction and development. While New Zealand has a network of national parks and reserves to permanently protect the best of our landscapes, we have no similar system for permanently protecting the best of our rivers.

Water conservation orders, under the Resource Management Act, were supposed to achieve this permanent protection. However, they are like regulations in that applications are processed by the Minister (supported by a Special Tribunal and the Environment Court), and gazetted.

Importantly, they can be revoked by the same method. This is in contrast to the National Parks Act, which can only be amended by an Act of Parliament.

In practice, the NZCA concluded that water conservation orders have not been effectively used to protect a representative range of rivers. The NZCA feared if steps are not taken immediately to protect our best rivers we will lose them. It recommended:

- A representative network of protected rivers should be established, equivalent to our national park system
- More attention and resources must be directed to protecting rivers, with a government agency given this responsibility
- The use, development and protection of rivers need to be rebalanced by increasing the emphasis on protection.
- Changes to water conservation order law and practice under the Resource Management Act are needed to address the above issues.

The Land and Water Forum (LAWF) recommended that provisions for water conservation orders should be amended to achieve an integrated management approach, including land use. Interaction with the NPSFM obligation to protect outstanding freshwater bodies needs to be clarified.

In our view, the NZCA and the LAWF recommendations have merit and must now be implemented. The responsibility should be given to a properly resourced government agency. The obvious government agency to do this would be the Department of Conservation.

Recommendations to the Ministers of Conservation, Environment and Lands

Review and implement NZCA and LAWF recommendations on river protection

In particular, a government agency should be given the responsibility to protect rivers.

There should be no more dams or weirs on wild or braided rivers in New Zealand or on the mainstem of any other river.

Protecting our seas

Forest & Bird welcomes the new Government's commitment to safeguard the healthy functioning of marine ecosystems and promote abundant fisheries. This will require DOC to develop a meaningful network of marine protected areas and MPI to establish a new approach through ecosystem-based fisheries management.

New Zealand has taken its marine environment for granted for too long, falling behind the rest of the world in meaningful marine protection, persisting with wasteful and destructive fishing methods, failing to address the impact of land use on coastal areas and paying insufficient attention to the likely impacts of climate change on our marine environments.

Coastal sedimentation is a critical issue for inshore fish life cycles and habitats that are in serious trouble. NIWA considers these coastal habitats to be at a tipping point for species like snapper.

New Zealand is known as the seabird capital of the world, with more endemic breeding species than any other country. Half of the world's species of albatrosses breed in New Zealand but we have the highest number of threatened seabird species anywhere in the world.

One of the biggest threats to seabirds and to marine mammals is bycatch. Thousands of albatrosses and petrels are killed as a result of fishing in New Zealand waters every year. The use of mitigation measures and more appropriate fishing methods can eliminate or drastically reduce bycatch.

Seafloor or benthic ecosystems are being destroyed by bottom trawling when nets attached to heavy steel rollers smash everything in their path on the seabed, including important and rare communities of corals. Bottom trawl nets also create plumes of sediment which smother habitats required by fish and other species. Addressing sediment flows is critical as we now know that reversing the effects of sedimentation will take many decades and in some cases may be irreversible.

New threats are emerging with prospecting for oil and gas, and minerals through extensive seismic surveys, proposals for seabed mining – such as an application consented this year for iron sand mining off the South Taranaki coast – despite threats to marine life including whales. Forest & Bird believes there should be a precautionary approach, under which consent is only granted when applicants can provide solid scientific evidence that mining will not cause significant damage to the marine environment.

A significant recently recognised impact on marine animals is from the noise from these prospecting and mining activities and boat traffic. Climate change will only add to the pressures on marine species and ecosystems from inappropriate exploitation of our seas.

While a third of New Zealand's land mass is protected as conservation land, less than 1% of our marine environment is fully protected. All the existing full protection is within the 12 nautical mile Territorial Sea zone. The great majority of these reserves surround offshore islands such as the Sub-Antarctic and Kermadec islands, with only around 2% of that tiny protected area situated around mainland New Zealand.

Despite New Zealand having an obligation under the Law of the Sea to preserve and protect the marine environment, none of New Zealand's vast EEZ is fully protected. New Zealanders have indicated they want the proposed Kermadec Rangitāhua Ocean Sanctuary and the incoming government should make achieving this goal a priority.

Electronic monitoring of fisheries

MPI is presently undertaking a major programme to improve fisheries reporting by introducing electronic log books, GPS and cameras on boats. Forest & Bird supports the programme because it could be a major step forward in fisheries management.

There is significant under-reporting of bycatch and discarding in some fisheries. Fisheries with very low observer coverage, generally small boats that can't fit extra people, face greater risks of discarding and misreporting. This means cameras on boats are an essential addition to the human observer programme to improve the accuracy of fisheries reporting.

Australia has been progressively introducing e-monitoring into their fisheries and full implementation commenced in July 2015. The key objective is to improve the quality and coverage of data and information previously reported by fishing vessels primarily in log books. During the first eight months of a trial in the Eastern Tuna and Billfish Fishery, reports showed there was a very clear increase in reporting rates of discards and bycatch, most significantly for seabirds and mammals.

Forest & Bird is supporting the New Zealand programme by participating in a trial in the Bottom Long Line Fishery in the Hauraki Gulf which affects black petrels, and in an MPI-led stakeholder forum to help implement electronic monitoring.

We were pleased to see the first phase of introducing the programme appeared to have been successful. It will be essential that data gathered by the programme is fully covered by the Public Records Act and the Official Information Act.

Forest & Bird supports slowing implementation of the programme because the timelines for implementation were very tight, but there needs to be a clear timetable for all fisheries to be included and for protected species bycatch to be fully integrated into it.

Recommendations to the Minister of Fisheries

- *Commit to fully implementing the electronic monitoring programme, including cameras on all vessels without human observers, and full integration of protected species bycatch*
- *Confirm that all data collected by the electronic monitoring programme is subject to the protections of the Official Information Act and the Public Records Act, including protections for the public interest.*

Zero bycatch goal

New Zealand still has unacceptable levels of bycatch. Every year thousands of seabirds and hundreds of marine mammals are killed by the fishing industry as well as many tonnes of coral. Actual levels of bycatch are hard to estimate because some of the high-risk fisheries have very low observer coverage. For a number of fisheries, bycatch is one of the key reasons the fishery rates poorly in Forest & Bird's Best Fish Guide.

Forest & Bird recently released figures about the set net fishery revealing the fishery was potentially catching hundreds of threatened penguins, although observer coverage was too low to allow accurate measuring of the full extent. All but one of the recorded incidents of penguins being killed in set nets was recorded by an official observer despite observer coverage being only 3% of the set net fishery. This suggested that most incidents of penguins being caught in nets are unreported, in breach of fishing regulations. Recent information suggests that mortality at sea appears to have caused a catastrophic collapse of the Foveaux Strait yellow-eyed penguin population.

Bycatch is one of the criteria Forest & Bird uses to evaluate the sustainability of fisheries in its Best Fish Guide, along with other factors such as stock numbers, regional differences, and destructive

fishing methods such as bottom-trawling. Consumers have the power to encourage sustainable fishing and aquaculture through their choices but they can only exercise this power if fish retailers provide them with information on where and how their fish were caught.

Recommendation to the Ministers of Primary Industries and Conservation

The Government should adopt a zero bycatch goal and bring legislation and practice progressively into line with this goal.

New Zealand sea lions

New Zealand sea lions are the world's rarest sea lion and are listed as critically endangered by DOC. New research from the universities of Otago, Massey and Toronto released in October 2017 confirmed that fishing nets are a major cause of their decline. Fishing vessels are required to use sea lion excluder devices but there is no published research on their efficacy and the survival rate of sea lions escaping the devices is unknown.

However, the New Zealand Sea Lion Threat Management Plan 2017-2022 developed by DOC and MPI contains no concrete measures for reducing the risk of fishing-related deaths, beyond carrying out further research and reviewing the operational plan. Although other factors, especially disease, have also played an important part in the decline of sea lion numbers, the fishing threat is one that can most easily be managed.

The Sub-Antarctic squid fishery around the Auckland Islands not only kills nationally critical New Zealand sea lions but also other marine mammals and it has one of the highest capture rates of seabirds in New Zealand. We have previously advocated that MPI promotes alternative fishing methods. There is no mention of jigging in the management plan as an alternative fishing method. Jigging would allow squid to be caught while preventing deaths of sea lions, other marine mammals and seabirds.

Despite industry claims that the ocean around the Auckland Islands is too rough for jigging, this fishing method is used in some of the world's roughest oceans, including the offshore squid jig fishery in the Falkland Islands.

The government should look at incentives to encourage the promotion and trialling of squid jigging

around the Auckland Islands. There is excess jigging quota which could easily be transferred.

Alternatively, the ministers could transfer quota from the squid trawl fishery around the Auckland Islands which overlaps the NZ sea lions foraging area into other areas around New Zealand because squid is found throughout our waters. This would separate the fishery and the sea lions while allowing squid fishing to continue. There is excess unfished trawl quota that could allow for this transfer.

Recommendation to the Ministers of Fisheries and Conservation

Revise the sea lion Threat Management Plan to a target of zero by-catch, including concrete measures to reduce the risk of fishing-related deaths and encourage alternatives to trawling.

Maui's and Hector's dolphins

The world's smallest dolphin is also one of the rarest with an estimated population of about 63. The Maui's dolphin population has fallen sharply since the 1970s when mono-filament set nets were introduced. Two fishing companies, Moana New Zealand and Sanford, said last year they would remove set nets from Maui's dolphin habitat on the west coast of the North Island north of New Plymouth by October this year. They also agreed to transition vessels away from conventional trawl fishing by 2022. Forest & Bird wants other companies to follow their lead and for the Government to help ensure the entire industry adopts fishing practices that would assure the future of Maui's dolphins.

The Maui's dolphin habitat needs to be free from set nets and trawling to allow the species to recover. Fishers may need support to transition to dolphin-safe fishing practices. The habitat should also be free from other threats including those associated with oil, gas, and minerals mining and exploration. Until new distribution maps are developed, this habitat is defined by the International Whaling Commission as stretching from Maunganui Bluff in the north to the Wanganui River mouth in the south, extending out to the 100 metre depth contour, or at least 12 nautical miles, and including harbours.

Recommendation to the Ministers of Fisheries and Conservation

Ensure the full range of Maui's dolphin habitat is free from human threats including oil and gas exploration, mining and set-netting.

National Plan of Action for seabirds

New Zealand adopted a National Plan of Action - Seabirds 2013 (NPOA) to protect seabirds, including albatross and petrels, from fishing bycatch. Key tasks to implement the NPOA have not been completed and seabird bycatch rates in all New Zealand trawl fisheries have changed little. Last year was a particularly bad year in the surface long line fishery and the NPOA is due to be reviewed in 2018.

Recommendation to the Ministers of Fisheries and Conservation

Adopt a zero bycatch goal for the National Plan of Action for seabirds and ensure that there are targets, timetables and actions to achieve the goal.

Kermadec Rangitāhua Ocean Sanctuary

Forest & Bird welcomes the intention of the Government to continue progressing the Kermadec Rangitāhua Ocean Sanctuary proposal. Forest & Bird has been a strong proponent of the sanctuary and is a party to the fishing industry case.

We also recognise that tangata whenua have a legitimate interest in ensuring that Treaty settlements are not undermined and that the Government respects its good faith and consultation obligations. We will continue to support the Government in establishing this sanctuary once those matters have been worked through.

According to MPI data, of the 66 species that the fishing industry seeks compensation for, 34 do not even occur in the region, a further 10 are listed as "unknown" in the region, six do not show up in the Ministry's own database, and of the 16 remaining species, six occur only in the existing marine reserve that covers the territorial seas immediately around the Kermadec Islands.

The sea area covered by the proposed sanctuary is not under full New Zealand sovereignty.

New Zealand is, however, able to control fishing in the area of the proposed sanctuary under the Law of the Sea, which places an obligation on New Zealand to preserve and protect the marine environment. Decisions to allocate quota are subject to that obligation.

Forest & Bird supports a continuation of negotiations by the Government.

Proposed blue whale sanctuary for Taranaki Bight

Forest & Bird was pleased by the announcement the Government will consider proposing a blue whale sanctuary for the Taranaki Bight. Forest & Bird was a submitter on the Trans-Tasman Resources seabed mining application and provided substantial technical evidence on the value of the area for whales. We are an appellant to the decision by the EPA to approve the application.

The proposed mining by Trans-Tasman Resources would reduce the value of establishing a marine mammal sanctuary in the region because the operation's noise and sediment plume would affect the resident population of blue whales.

The area is significant for numerous species with as many as 34 cetacean species recorded there. A marine mammal sanctuary would also support what appears to be an important habitat for pygmy right whales, and give some protection to the corridor that connects the population of Maui's dolphins to South Island Hector's dolphin populations.

A sanctuary would encourage further research into this blue whale population and other species that use the area.

Marine mammal sanctuaries should be reviewed, particularly with respect to the impacts of anthropogenic noise. DOC is currently sitting on the 2017 Code of Conduct for mitigating the impacts of seismic surveys on marine mammals. This new code is a significant improvement on the 2013 code but falls short of proper mitigation. A more precautionary approach needs to be taken, and the onus must shift on to proponents of extractive industries to prove that they are not affecting marine mammals. Current methods of mitigation are not effective for many species present in New Zealand waters.

Forest & Bird would be happy to be involved in the design of the sanctuary.

Recommendation to the Minister of Conservation

- *Broaden the proposed blue whale sanctuary to a wider marine mammal sanctuary*
- *Establish a sound budget to limit the amount of noise that impacts the area of the sanctuary as a result of mining, prospecting, vessel traffic, and associated activities.*
- *Prohibit all seismic surveys from marine mammal sanctuaries and where noise from operations would overlap with sanctuary boundaries.*
- *Review the EPA's decision to approve the Trans-Tasman Resources' proposal because mining will negatively affect the marine mammal populations within the proposed marine mammal sanctuary.*