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IN CONFIDENCE

House of Representatives

Supplementary Order Paper

Thursday, 12 September 2019

Conservation (Indigenous Freshwater Fish) Amendment Bill

Proposed amendments

Hon Eugenie Sage, in Committee, to move the following amendments:

Clause 9

In *clause 9*, *new section 26ZJ(1)(a)*, replace "**section 26ZJA(2)**" (page 6, line 27) with "**section 26ZJA(3)**".

In *clause 9*, after *new section 26ZJ(1)(c)* (page 6, after line 31), insert:

(ca) disturbs any sports fish that are congregating or have congregated to spawn:

In *clause 9*, *new section 26ZJ(2)*, replace "**Subsection (1)**" (page 7, line 4) with "**Subsection (1)(a) to (c)**".

In *clause 9*, *new section 26ZJ(3)*, replace "**Subsection (1)(d) and (e)**" (page 7, line 6) with "**Subsection (1)(ca) to (e)**".

In *clause 9*, *new section 26ZJ(4)*, replace "**section 26ZJA(3) or (4)**" (page 7, lines 8 and 9) with "**section 26ZJA(4) or (5)**".

In *clause 9*, replace *new section 26ZJA* (page 7, line 10 to page 8, line 6) with:

26ZJA Director-General may declare spawning area

(1) The Director-General may, by notice in the *Gazette*, declare an area to be a spawning area if the Director-General has reasonable grounds to believe that the area—

(a) is being used for the spawning of freshwater fish; or

(b) is suitable for the spawning of freshwater fish.

(2) Without limiting **subsection (1)**, the Director-General may make a notice declaring a spawning area under that subsection on the rec-

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70816xt7bv 2019-09-18 12:03:39

ommendation of the New Zealand Fish and Game Council in relation to the spawning of sports fish in the area.

(3) A person must not carry out an activity in a declared spawning area that disturbs or is reasonably likely to disturb the area unless—

(a) the Director-General has given authorisation under **subsection (4) or (5)** for the activity to be carried out; and

(b) the person complies with any conditions or restrictions specified in the authorisation.

(4) The Director-General may, by notice in the *Gazette*, give authorisation for a specified activity to be carried out in a declared spawning area that disturbs or is reasonably likely to disturb the area, if the Director-General is satisfied that—

(a) the activity would have no more than a minor effect on the suitability of the area for the spawning of freshwater fish; or

(b) the activity is necessary for the restoration of the area; or

(c) the purpose of the activity outweighs any adverse effect it may have on the spawning of freshwater fish in the area.

(5) The Director-General may, on application, give a person written authorisation to carry out a specified activity in a declared spawning area that disturbs or is reasonably likely to disturb the area if the Director-General is satisfied that—

(a) **subsection (4)(a), (b), or (c)** applies to the activity; and

(b) any requirements in regulations have been met.

(6) An authorisation under **subsection (4) or (5)** may be subject to any conditions or restrictions specified by the Director-General in the authorisation.

(7) In this section, an activity **disturbs a declared spawning area** if it—

(a) disturbs the spawning of freshwater fish in the area; or

(b) makes the area less suitable for the spawning of freshwater fish in the area.

(8) A notice under **subsection (4)** is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

New clause 16AA

After *clause 16* (page 11, after line 15), insert:

16AA Section 51F amended (Offences relating to spawning fish)

(1) Replace section 51F(1)(a), with:

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70816xt7bv 2019-09-18 12:03:39

(a) disturb a declared spawning area within the meaning of **section 26ZJA(7)**; or

(2) In section 51F(1)(c), before "have", insert "take or".

(3) After section 51F(1)(c), insert:

(ca) disturb any sports fish that are congregating or have congregated to spawn; or

(4) In section 51F(1)(d), replace "take, with a spear, gaff, speargun, net, trap, or similar device," with "with any spear, gaff, speargun, net, trap, or similar device, take".

Clause 16A

In *clause 16A*, replace *new clause 4 of Schedule 1AA* (page 11, lines 28 to 33) with:

4 Application of section 26ZHB(1) to whitebait fishing in conservation areas delayed

(1) Until the date that the first notice under **section 26ZHD** authorising the taking of whitebait comes into force, **section 26ZHB(1)** does not apply to a person who fishes for whitebait from a conservation area in accordance with the Whitebait Fishing Regulations 1994 or Whitebait Fishing (West Coast) Regulations 1994.

(2) The notice described in **subclause (1)** must not come into force on a date earlier than 2 years after the commencement date.

In *clause 16A*, *new clause 6 of Schedule 1AA*, replace "**subsection 48(1)(na)**" (page 12, line 10) with "**section 48A(1)(na)**".

Explanatory note

This Supplementary Order Paper amends the Conservation (Indigenous Freshwater Fish) Amendment Bill to—

- make it an offence for a person to disturb any sports fish that have gathered or are gathering to spawn; and
- prohibit the carrying out of any unauthorised activity that disturbs or is reasonably likely to disturb a declared spawning area (the Bill currently prohibits unauthorised activities that are reasonably likely to disturb a declared spawning area); and
- provide that the Director-General may declare a spawning area on the recommendation of the New Zealand Fish and Game Council in relation to sports fish; and
- update section 51F of the Conservation Act 1987, which provides for infringement offences relating to spawning fish; and
- provide that the prohibition against the taking of indigenous freshwater fish from a conservation area does not apply to the lawful taking of whitebait until

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70816xt7bv 2019-09-18 12:03:39

the date that the first notice under *new section 26ZHD* authorising the taking of whitebait from a conservation area comes into force. That notice must not come into force earlier than 2 years after the commencement of the Bill (when enacted).

This Supplementary Order Paper also makes minor and consequential amendments to the Bill.

Departmental disclosure statement

The Department of Conservation considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

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