

8 July 2022

Ministry for the Environment
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Tēnā koe,

Submission on exposure drafts for amendments to:

- **The National Policy Statement for Freshwater Management 2020 (NPS-FM); and**
- **The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)**

Thank you for the opportunity to submit on the exposure drafts identifying potential amendments to the NPS-FM and the NES-F. Our submissions below focus only on the draft provisions that the Council particularly supports or wishes to see amendments made.

NPS-FM

Our submission on the draft amendment to the NPS-FM is as follows:

Subpart 3 Specific requirements - 3.21 Definitions relating to wetlands and rivers

Definition for natural wetland

We generally support the clarifications proposed to the definition for natural wetland. However, we note the proposed amendments to clause (a) appear to have the effect of including wetlands that were constructed to offset environmental effects prior to the existence and application of the effects management hierarchy. We see no reason to make that differentiation, rather we consider all constructed wetlands should be treated the same and excluded from the definition for natural wetlands. Accordingly, we request deleting the following proposed text from clause (a):

... as part of giving effect to the effects management hierarchy;

We particularly support the clarification to identify wetlands provided by the proposed amendments to clause (d) and the corresponding deletion of the definition for *improved pasture*. These amendments will enable the identification of natural wetlands with a considerably greater degree of certainty.

Definition for specified infrastructure

The proposed insertion of clause (c) is supported in part. We request clarification is added to specify what water storage infrastructure includes and what it does not include. As currently worded it is open to interpretation and uncertainty.

Definition for wetland maintenance

We support the proposed introduction of a definition for wetland maintenance as it assists in clarifying the types of positive activities that may be carried out within natural wetlands.

Clause 3.22 Natural inland wetlands

We generally support the amendments proposed to this clause. In particular we support the proposed ability to apply the effects management hierarchy to activities affecting natural inland wetlands where the activities relate to the contribution of well-functioning urban environments ((c)(i)), and on land identified for urban development in an operative regional or district plan ((c)(ii)). These amendments, when combined with the clarifications proposed to the definition for natural wetland, provide a considerably greater degree of certainty for future urban planning while ensuring actual and potential effects on natural inland wetlands are appropriately managed via the application of the effects management hierarchy.

We agree it is appropriate that future urban development on greenfield (rural zone) land should be avoided within natural inland wetlands ((c)(iii)) where they have been identified in accordance with proposed amended definition for *natural wetland*.

We request clause (c)(iv) be amended to change *practicable alternative location* to reasonably practicable alternative location. This wording would better reflect the complexities of planning for future urban development and would align with the wording used in section 32 of the Act when evaluating reasonably practicable alternatives to meeting the relevant objectives.

We do not express a strong view on the proposed inclusion of consent pathways for quarries, mineral extraction or new landfills. We note such activities have the potential to generate significant adverse effects if located within natural wetlands. We agree the application of the effects management hierarchy is appropriate for nationally and regionally significant activities such as these.

We request that city and district council stormwater infrastructure be added to the list under (1)(a), or alternatively a specific consent pathway is provided similar to that proposed for urban development and other regionally or nationally significant activities within clause 3.22. With the impacts of increased rainfall in Kāpiti as a result of climate change combined with rising sea levels and subsiding land due to plate tectonics, the stormwater infrastructure in Kāpiti requires significant investment and upgrading to mitigate increasing flooding impacts and risks to the community. Water tables in Kāpiti are rising, and this in turn is likely to result in the formation of new areas that would meet the definition for natural wetland. The Council must have a consent pathway provided to enable it to address these significant natural hazards risks to its community via upgrading and installation of new stormwater infrastructure where a natural wetland may be affected.

NES-F

Our submission on the draft amendments to the NES-F is as follows:

Definitions for improved pasture, natural inland wetland, and wetland maintenance

We support the suggested amendments to these definitions for the same reasons given above with respect to the draft amendments to the NPS-FM.

Subpart 1 – Natural wetlands

Clause 38 - Permitted Activities replacement subclauses (1)(a), (2)(a) (5)(a) and (5)(b)

We request these subclauses be expanded to include earthworks necessary for the purpose of erecting fences to protect wetlands. A 100 metre buffer that does not permit earthworks to install a wetland protection fence is excessive and is likely to discourage this activity. The erection of fences to protect wetlands from grazing and browsing animals and predators should be specifically encouraged and provided for as a permitted activity to help achieve the relevant objective of the NPS-FM. Reliance on the proposed use of the term *biosecurity* is too ambiguous as it is not clear whether this includes the installation of fences.

Construction of specified infrastructure

Clause 45 Discretionary Activities

We request the addition of new city and district council stormwater infrastructure to be specifically provided for as a discretionary activity (these are currently excluded by the definition of “other infrastructure” which must have been in place by 2 September 2020).

With the impacts of increased rainfall in Kāpiti as a result of climate change combined with rising sea levels and subsiding land due to plate tectonics, the stormwater infrastructure in Kapiti requires significant investment and upgrading to mitigate increasing flooding impacts and risks to the community. Water tables in Kāpiti are rising, and this in turn is likely to result in the formation of new areas that would meet the definition for natural wetland, further constraining the Council’s ability to install new stormwater infrastructure. The Council must have a consent pathway provided to enable it to address these significant natural hazards risks to its community via upgrading and installation of new stormwater infrastructure where a natural wetland may be affected. We anticipate many city and district councils around the country will be in a similar position to Kāpiti.

Urban Development - Clause 45C – Restricted Discretionary Activities

We support the inclusion of the specific urban development consent path for urban development involving vegetation clearance within 10 metres of a natural inland wetland. This strikes an appropriate balance between the competing interests of the NPS-UD and the NPS-FM, particularly when the suggested amendments to the definition for *natural wetland* are considered alongside.

Maintenance and operation of specified infrastructure and other infrastructure – Clause 46(4)(a)(ii)

We support the specific inclusion of the maintenance and operation of public flood control, flood protection or drainage works as a permitted activity.

We look forward to seeing the outcomes of this consultation.

Ngā mihi

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