



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*



## Wetlands factsheet

Essential Freshwater is part of a new national direction to protect and improve our rivers, streams, lakes and wetlands. The Essential Freshwater package aims to:

- stop further degradation of our freshwater
- start making immediate improvements so water quality improves within five years
- reverse past damage to bring our waterways and ecosystems to a healthy state within a generation.

### **Te Mana o te Wai is fundamental to all freshwater management**

Te Mana o te Wai recognises the vital importance of water. It expresses the special connection that New Zealanders have with freshwater. By protecting the health of freshwater we protect the health and well-being of people and our ecosystems. When managing freshwater, Te Mana o te Wai ensures the health and well-being of the water is protected and human needs are provided for before enabling other uses of water. Through discussions with regional councils, tangata whenua and communities people will have a say on how Te Mana o te Wai is applied locally in freshwater management. More information can be found in the [Te Mana o te Wai factsheet](#).

## Who should read this factsheet

This factsheet is part of a [series](#) and provides information on new provisions for wetlands. It is primarily intended for council staff and land users, but may also be of interest to iwi, the wider agricultural industry, farm advisors and consultants, and anyone else with an interest in freshwater policy.

## New provisions for wetlands

The [National Policy Statement for Freshwater Management 2020](#) (NPS-FM 2020) includes new policies to avoid the loss of extent of natural inland wetlands, protect their values and promote their restoration. The new regulations in the [National Environmental Standards for Freshwater](#) (NES) place restrictions on damaging activities in and near natural wetlands. [The Resource Management \(Stock Exclusion\) Regulations 2020](#) mandate that certain stock must

**be excluded from natural wetlands in some circumstances.** The NES, NPS-FM 2020 and stock exclusion regulations come into force on 3 September 2020. Regional councils will need to amend their regional plans as soon as practicable to include a policy to avoid the loss of extent of natural inland wetlands, protect their values and promote their restoration, without using the Schedule 1 process. Any other changes to give effect to the NPS-FM 2020 through their regional policy statement and changes to regional plans will need to be notified by 31 December 2024.

NPS-FM 2020 applies to:	NES applies to:
<ul style="list-style-type: none"> <li>✓ Natural inland wetlands<sup>1</sup></li> <li>✓ This includes constructed wetlands outside the coastal marine area that were constructed to offset impacts on, or restore an existing or former natural wetland.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Natural inland wetlands AND</li> <li>✓ Natural coastal wetlands</li> </ul> <p>(Together referred to as natural wetlands<sup>1</sup>)</p> <ul style="list-style-type: none"> <li>✓ This includes constructed wetlands that were constructed to offset impacts on, or restore an existing or former natural wetland</li> </ul>
NPS-FM 2020 does not apply to:	NES do not apply to:
<ul style="list-style-type: none"> <li>X Natural coastal wetlands (as these are covered by the New Zealand Coastal Policy Statement 2010 (NZCPS)).</li> <li>X Geothermal wetlands</li> <li>X Constructed wetlands inside the coastal marine area</li> <li>X Constructed wetlands created for other purposes</li> </ul>	<ul style="list-style-type: none"> <li>X Geothermal wetlands</li> <li>X Constructed wetlands created for other purposes</li> </ul>

## What are the new NPS-FM 2020 policies and when do they apply?

### Overarching policy

From 3 September 2020, regional plans need to be amended to include an overarching policy to avoid the loss of extent of natural inland wetlands, protect their values and promote their restoration.

This amendment must be made as soon as practicable, without the use of the Schedule 1 process in the Resource Management Act 1991 (RMA). Under s104 of the RMA consent authorities need to have regard to a national policy statement. Councils are encouraged to seek legal advice as to how the NPS-FM 2020 applies to specific applications for resource consent that are being processed at the time of amendment.

### Exceptions to the overarching policy

The overarching policy allows councils to permit or grant resource consents for some specified activities in or near wetlands. For detail on which activities may be permitted or granted resource consents, see figure 1 below.

One notable exception is that councils may grant resource consents for the construction or upgrade of specified infrastructure<sup>1</sup> that will provide significant national or regional benefits, if the regional council is satisfied that there is a functional need<sup>1</sup> for that infrastructure in that location.

Since “specified infrastructure” includes regionally significant infrastructure identified as such in a regional policy statement or plan, regional councils are encouraged to begin the process of identifying appropriate infrastructure in their policy statements and plans as soon as possible.

## Managing adverse effects on wetlands

Resource consents must be assessed by applying the effects management hierarchy<sup>1</sup> to manage any adverse effects on the wetland extent or values, including cumulative effects and loss of potential value, as a result of the proposed activity. Councils must impose conditions on resource consents to apply the effects management hierarchy and require monitoring of the wetland for the consent duration, at a scale appropriate to the potential adverse effects of the activity.

Under the effects management hierarchy, adverse effects on the wetland extent or values caused by the activity are avoided, minimised then remedied (in that order) wherever practicable, then offset or compensated (in that order) where possible. If these cannot be achieved, the activity must be avoided, and consent declined.

The Ministry is planning to work with partners and stakeholders to develop technical guidance on the effects management hierarchy. In the meantime, aquatic offsetting<sup>1</sup> and compensation<sup>1</sup> under the effects management hierarchy should be measured and monitored in accordance with the principles that underpin biodiversity offsetting in currently available guidance<sup>2</sup>, noting that the NPS-FM 2020 and NES also require consideration of values other than indigenous biodiversity, such as ecosystem health, hydrological functioning, mahinga kai and other Māori freshwater values, and amenity values.

Aquatic offsets should achieve at least no net loss,<sup>1</sup> and preferably result in a net gain<sup>1</sup> in wetland extent or values. However, many values (especially biodiversity) cannot be offset or compensated due to irreplaceability or vulnerability, and if they are adversely affected, they may be permanently lost. This means for some projects, offsetting and compensation is not achievable and the activity should be avoided. This will be decided by regional councils.

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<sup>1</sup> See the NPS-FM 2020 text for legal definitions of terms.

<sup>2</sup> Currently available biodiversity offsetting guidance:

<https://www.eianz.org/document/item/4447>

<https://www.doc.govt.nz/Documents/our-work/biodiversity-offsets/the-guidance.pdf>

<https://www.lgnz.co.nz/assets/Uploads/7215efb76d/Biodiversity-offsetting-under-the-resource-management-act-full-document-....pdf>

Please note that the LGNZ guidance references the hierarchy of obligations in the RMA, and therefore will not be directly applicable to the NPS-FM 2020 as the order and steps of the effects management hierarchy differs.

## Mapping and monitoring

Regional councils also need to identify, map, and monitor those natural inland wetlands that are larger than 500 square metres or that contain threatened species (if less than 500 square metres), excluding those located on public conservation lands or waters. Councils may also include coastal wetlands and conservation lands and waters in their mapping at their own discretion. Mapping must be completed by 3 September 2030. If there is uncertainty about the existence or extent of a wetland, this should be decided using the wetland delineation protocols, available online.<sup>3</sup>

Monitoring should provide enough information for the council to assess whether its plan provisions are successfully ensuring no net loss of wetland extent and values. The mapping and monitoring information collected should be used to create and maintain an inventory of wetlands in the region. This data collection will support councils to track the health of wetlands in their region and provide a baseline for restoration efforts.

Additionally, regional councils must include provisions for the restoration of natural inland wetlands in their regional plans, including restoring the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity value.

## What are the NES regulations and when do they apply?

The NES regulations come into force on 3 September 2020.

The regulations require strict measures, including but not limited to resource consents, for activities that can result in the loss of extent and values of natural wetlands. The NES prescribes activity statuses and detailed conditions for various potentially damaging activities in and around wetlands. Some activities that cause complete or partial drainage of all or part of a natural wetland are now prohibited - see figure 1 for details. A regional rule or resource consent may be more stringent than the regulations, but more lenient rules in regional plans will be superseded by the NES.

The new standards do not apply to the customary harvest of food or resources undertaken in accordance with tikanga Māori.

Figure 1 explains what activity status may apply to a proposed activity in or near a natural inland wetland. This is determined by the purpose of the activity, the type of activity, and its expected adverse effects on the natural wetland. See the NES text for detailed conditions that apply to each activity. The NES also details matters to which the discretion of a consent authority is restricted.

The relationship between these new regulations and existing consents or existing lawful activities is set out in section 43B of the RMA. In general:

- consents granted prior to gazettal<sup>4</sup> of the regulations prevail until reviewed

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<sup>3</sup> <https://www.mfe.govt.nz/publications/fresh-water/wetland-delineation-protocols>


<sup>4</sup> 5 August 2020

- consents also prevail if there was a decision made about whether or not to notify the relevant consent application prior to gazettal of the regulations
- activities that require a consent under the regulations may be able continue temporarily under **section 20A(2)** of the RMA if:
  - they were permitted, or allowed without a consent, and lawfully established, prior to the relevant regulations commencing; and
  - the effects of the activities are of the same or similar character, scale, and intensity as they were before commencement; and
  - the person carrying out the activities applies for consent no later than 6 months after commencement. The activities may continue until the consent application, and any appeals, are finally determined.

For activities to which section 20A applies, this means that people must apply for their consent no later than **2 March 2021**.

**Figure 1: The status of wetlands activities under the National Environmental Standards for Freshwater**

		Permitted	Restricted discretionary	Discretionary	Non-complying	Prohibited	Exempt
Proposed activity (see the NES text for full legal definitions for each activity)	Vegetation clearance within, or within a 10-metre setback of a natural wetland, unless otherwise specified	<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that complies with conditions in regulation 38(4)</p> <p>scientific research that complies with conditions in regulation 40(4)</p> <p>maintenance of wetland utility structures that complies with the conditions in regulation 43(4)</p> <p>maintenance and operation of specified infrastructure and other infrastructure that complies with the conditions in regulation 46(4)</p> <p>arable and horticultural land use outside a natural wetland but within a 10 m setback in an area that was used for these purposes at any time between the start of 1 January 2010 and the close of 2 September 2020, and that complies with the general conditions on natural wetland activities in regulation 55 (except regulation 55(2))</p> <p>natural hazard works (for the purpose of removing material, such as trees, debris and sediment, that is deposited as the result of a natural hazard and is causing, or is likely to cause, an immediate hazard to people or property) that complies with the conditions in regulation 51(5).</p>	<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that does not comply with any of the conditions in regulation 38(4)</p> <p>scientific research that does not comply with conditions in regulation 40(4)</p> <p>construction of wetland utility structures</p> <p>maintenance of wetland utility structures that does not comply with any of the conditions in regulation 43(4)</p> <p>maintenance and operation of specified infrastructure and other infrastructure if it does not comply with any of the conditions in regulation 46(4).</p>	<p><b>If the activity is for the purposes of:</b></p> <p>construction of specified infrastructure.</p>	Vegetation clearance activities within, or within a 10-metre setback from, a natural wetland if they do not have another status under Subpart 1 of Part 3 of the NES.	N/A	 <p><b>If the activity is for the purposes of:</b></p> <p>the customary harvest of food or resources undertaken in accordance with tikanga Māori.</p>

Proposed activity (see the NES text for full legal definitions for each activity)		Permitted	Restricted discretionary	Discretionary	Non-complying	Prohibited	Exempt
Earthworks or land disturbance within, or within a 10-metre setback from, a natural wetland, unless otherwise specified		<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that complies with conditions in regulation 38(4)*</p> <p>scientific research that complies with conditions in regulation 40(4)*</p> <p>maintenance of wetland utility structures that complies with the conditions in regulation 43(4)*</p> <p>maintenance and operation of specified infrastructure and other infrastructure that complies with the conditions in regulation 46(4)*</p> <p>arable and horticultural land use outside a natural wetland but within a 10-metre setback in an area that was used for these purposes at any time between the start of 1 January 2010 and the close of 2 September 2020, that complies with the general conditions on natural wetland activities in regulation 55 (except regulation 55(2))</p> <p>natural hazard works (for the purpose of removing material, such as trees, debris and sediment, that is deposited as the result of a natural hazard, and is causing, or is likely to cause, an immediate hazard to people or property) that complies with the conditions in regulation 51(5).</p>	<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that does not comply with any of the conditions in regulation 38(4)</p> <p>scientific research that does not comply with conditions in regulation 40(4)</p> <p>construction of wetland utility structures</p> <p>maintenance of wetland utility structures that does not comply with any of the conditions in regulation 43(4)</p> <p>maintenance and operation of specified infrastructure and other infrastructure if it does not comply with any of the conditions in regulation 46(4).</p>	<p><b>If the activity is for the purposes of:</b></p> <p>construction of specified infrastructure (earthworks or land disturbance within, or within a 10-metre setback from a natural wetland)</p> <p>construction of specified infrastructure (earthworks or land disturbance outside a 10-metre setback but within a 100-metre, setback, from a natural wetland if it results, or is likely to result, in the complete or partial drainage of all or part of the natural wetland).</p>	<p>Earthworks outside, but within a 100-metre setback from, a natural wetland if it results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland, and does not have another status under any of regulations 38 to 51.</p> <p>Earthworks within, or within a 10-metre setback from, a natural wetland are non-complying activities if they do not have another status under Subpart 1 of Part 3 of the NES.</p>	<p>Earthworks within a natural wetland is a prohibited activity if it results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland, and does not have another status under any of regulations 38 to 51.</p>	 <p><b>If the activity is for the purposes of:</b></p> <p>the customary harvest of food or resources undertaken in accordance with tikanga Māori.</p>

\* The size threshold conditions do not apply to earthworks and land disturbance for planting.



Proposed activity (see the NES text for full legal definitions for each activity)		Permitted	Restricted discretionary	Discretionary	Non-complying	Prohibited	Exempt
The taking, use, damming, diversion, or discharge of water within, or within a 100-metre setback from, a natural wetland; unless otherwise specified.		<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that complies with conditions in regulation 38(4)</p> <p>scientific research that complies with conditions in regulation 40(4)</p> <p>maintenance of wetland utility structures that complies with the conditions in regulation 43(4)</p> <p>maintenance and operation of specified infrastructure and other infrastructure that complies with the conditions in regulation 46(4)</p> <p>natural hazard works (for the purpose of removing material, such as trees, debris and sediment, that is deposited as the result of a natural hazard; and is causing, or is likely to cause, an immediate hazard to people or property) that complies with the regulations in regulation 51(5).</p>	<p><b>If the activity is for the purposes of:</b></p> <p>wetland restoration that does not comply with the conditions in regulation 38(4)(a)</p> <p>scientific research that does not comply with the conditions in regulation 40(4) but does comply with the conditions in regulation 41(4)**</p> <p>construction of wetland utility structures that complies with the conditions in regulation 42(4)**</p> <p>maintenance of wetland utility structures if it does not comply with any of the conditions in regulation 43(4), but does comply with the conditions in regulation 44(4)**</p> <p>maintenance and operation of specified infrastructure and other infrastructure if it does not comply with any of the conditions in regulation 46(4) but does comply with the conditions in regulation 47(5). However, the conditions do not apply if the activity is for the purpose of maintaining or operating hydro-electricity infrastructure.**</p>	<p><b>If the activity is for the purposes of:</b></p> <p>construction of specified infrastructure.</p>	<p>The taking, use, damming, diversion or discharge of water outside, but within a 100-metre setback from, a natural wetland is a non-complying activity if it results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland and does not have another status under any of regulations 38 to 51.</p> <p>The taking, use, damming, diversion or discharge of water within, or within a 100-metre setback from, a natural wetland are non-complying activities if they do not have another status under Subpart 1 of Part 3 of the NES.</p>	<p>The taking, use, damming, diversion, or discharge of water within a natural wetland is a prohibited activity if it results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and does not have another status under any of regulations 38 to 51.</p>	<p><b>If the activity is for the purposes of:</b></p> <p>the customary harvest of food or resources undertaken in accordance with tikanga Māori.</p>
	Sphagnum moss harvesting within a natural wetland	<p><b>If the activity is for the purposes of:</b></p> <p>sphagnum moss harvesting in areas where sphagnum moss was harvested, or actively managed for harvest, at any time between the start of 1 January 2010 and the close of 2 September 2020. The harvest must comply with the conditions in regulation 48(2).</p>	N/A	<p><b>If the activity is for the purposes of:</b></p> <p>new sphagnum moss harvests if sphagnum moss was not harvested, or actively managed for harvest, in the area being harvested at any time between the start of 1 January 2010 and the close of 2 September 2020.</p>	N/A	N/A	

\*\* The conditions in regulations 41(4)(c), 42(4)(c), 44(4)(c), and 47(5)(c) do not apply to any part of the wetlands bed that is in direct contact with the relevant equipment or structures.



## What are the stock exclusion regulations and when do they apply?

### New farms

Under the stock exclusion regulations, for any new pastoral system<sup>5</sup>, stock, being beef cattle, dairy cattle, dairy support cattle, deer or pigs, must be excluded from natural wetlands that are identified in any regional or district plan or regional policy statement that is operative on or after 3 September 2020.

Farmers managing a new pastoral system must also ensure stock are excluded from wetlands supporting a population of threatened species (identified in the NPS-FM 2020), and from any wetland 0.05 ha (500 square metres) or greater on **low slope land as mapped**. The maps form part of the stock exclusion regulations and are published on the Ministry for the Environment website.

### Existing farms

For all other farms, stock (excluding sheep) must be excluded by 1 July 2023 from natural wetlands identified in an operative regional or district plan or regional policy statement as at 3 September 2020.

These farms also must exclude stock from wetlands supporting a population of threatened species (identified in the NPS-FM 2020) by 1 July 2025.

Finally, stock must be excluded from wetlands 0.05 ha or greater on low slope land by 1 July 2025.

### All farms

The responsibility for complying with the stock exclusion regulations sits with the person who owns or controls the stock.

More stringent stock exclusion provisions in a regional plan prevail over provisions in these stock exclusion regulations.

## Why these provisions?

The NES, NPS-FM 2020 and stock exclusion regulations are designed to prevent further loss of New Zealand's valuable natural wetlands and associated ecosystems.

New Zealand wetlands provide essential habitat for a diverse range of endemic flora and fauna, including critically endangered birds like matuku and kōtuku, as well as 67 per cent of freshwater and estuarine fish species, and 13 per cent of nationally threatened plant species. Wetlands provide essential ecosystem services, acting as buffers for flooding, nutrient cyclers, water purifiers and carbon sinks. Replacing these ecosystem services with infrastructure

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<sup>5</sup> Any land converted to pastoral land use on or after 3 September 2020

like constructed wetlands, flood barriers and dams generally costs more than avoiding their loss in the first place.

The value of wetlands has not been historically recognised, and many were drained to create additional 'usable' land. This has resulted in the loss of over 90 per cent of New Zealand's historical inland wetland extent.

## More about the Essential Freshwater package

The package includes a number of new provisions including:

- new **National Environmental Standards for Freshwater**
- new **stock exclusion regulations** under section 360 of the RMA
- amendments to the **Resource Management (Measurement and Reporting of Water Takes) Regulations 2010**
- the **National Policy Statement for Freshwater Management 2020** which replaces the NPS-FM 2017
- **amendments to the RMA** to provide for a faster freshwater planning process
- **amendments to the RMA** to enable mandatory and enforceable freshwater farm plans, and the creation of regulations for reporting nitrogen fertiliser sales.

### Factsheets in this series

The full set of Essential Freshwater factsheets are available [on our website](#).

### Find out more and give us feedback

Contact us by emailing [freshwater@mfe.govt.nz](mailto:freshwater@mfe.govt.nz), or visit [the Essential Freshwater page](#) on our website.

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