

Summary of recommendations and the Minister for the Environment's decisions on amendments to the NPS-FM 2020

Under section 52(3)(c) of the Resource Management Act 1991



Ministry for the
Environment
Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
New Zealand Government

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Introduction

Overview

In June 2018, the Government approved the *Essential Freshwater* work programme to stop further degradation of Aotearoa New Zealand's freshwater resources, start making immediate improvements, and reverse past damage within a generation.

In August 2020, the *Essential Freshwater* regulatory package was gazetted. It included the:

- [National Policy Statement for Freshwater Management 2020 \(NPS-FM\)](#), designed to embed long-term changes to freshwater management through regional plans
- [Resource Management \(National Environmental Standards for Freshwater\) Regulations 2020 \(NES-F\)](#), which regulates activities that can pose a high environmental risk to freshwater ecosystems and values
- [Resource Management \(Stock Exclusion\) Regulations 2020](#).

Following gazettal, feedback received through ongoing engagement with councils and other stakeholders indicated the NPS-FM and NES-F would require modification to address emerging issues and better support implementation.

The Government agreed to undertake public consultation on proposed changes to address implementation and other issues as set out in the following documents:

- [Managing our wetlands](#), from 1 September to 27 October 2021
- [Exposure drafts of proposed changes to the NPS-FM and NES-F \(including wetland regulations\)](#), from 31 May to 10 July 2022
- [Managing our wetlands in the coastal marine area](#), from 10 August to 21 September 2022.

The above consultation occurred alongside other consultation relating to [Freshwater farm plan regulations](#), [Intensive winter grazing regulations](#), and [Changes to the low slope map \(Stock exclusion regulations\)](#), which are not the focus of this document.

Feedback on the early consultation, particularly in relation to wetlands, identified a broader range of issues that needed to be addressed. That is why further consultation through exposure drafts of the proposed amendments introduced additional changes.

Process for amending a national policy statement

Under section 46A of the Resource Management Act 1991 (**RMA**) the Minister for the Environment (**the Minister**) must establish a process for amending national directions, either by appointing a board of inquiry under section 46A(3)(a), or other process that meets the requirements set out in the RMA under section 46A(3)(b).

The process must include:

- public consultation
- written submissions
- a report and recommendations which must be made to the Minister on the submissions and the subject matter of the national direction.

Note: The Minister must satisfy additional requirements before recommending the making of national direction to the Governor-General, for example, the preparation and consideration for an evaluation report in accordance with section 32 of the RMA.

The Order in Council approving amendments to the NPS-FM and NES-F was published in the New Zealand Gazette on 8 December 2022. The amendments took effect from 5 January 2023.

Section 52(3)(c) of the RMA requires the Minister, as soon as practicable after a national policy statement has been approved, to provide every person who made a submission with a summary of the recommendations, and a summary of the Minister's decisions on those recommendations (including the reasons for not adopting any recommendations). This document, prepared by the Ministry for the Environment (**the Ministry**) on behalf of the Minister, provides that summary and covers amendments to both the NPS-FM and NES-F.

Summary of recommendations and Minister's decisions

Because of the iterative nature of consultation on the proposed changes to the NPS-FM and NES-F, the Ministry's advice and recommendations to the Minister comprises multiple documents, reflecting the advice as it was developed in response to feedback over time.

The final [report and recommendations](#) combines those documents, as follows:

- the 'Managing our wetlands: Report, recommendations and summary of submissions' (published in May 2022) provided to the Minister following initial consultation (1 September to 27 October 2021)
- the briefing 'Essential Freshwater 2021 amendments – seeking drafting decisions for wetlands' (BRF-1004) provided to the Minister on 10 February 2022 following initial consultation (1 September to 27 October 2021)
- the briefing 'Essential Freshwater – results of the exposure draft consultation on technical changes and wetland amendments' (BRF-1889) provided to the Minister on 30 August 2022 following exposure draft consultation (31 May to 10 July 2022)
- the briefing 'Managing our wetlands in the coastal marine area' (BRF-2072) provided to the Minister on 14 October 2022 following consultation (10 August to 21 September 2022).

In addition to the above, the Cabinet package of documents seeking final decisions on the *Essential Freshwater* 2022 amendments was accompanied with a [cover briefing \(BRF-2462\)](#). This cover briefing, provided to the Minister on 16 November 2022, included advice and recommendations on remaining matters outstanding from exposure draft feedback on the wetland amendments.

For the purpose of this document, recommendations made by the Ministry and corresponding Minister's decisions have been summarised thematically.

[Table 1](#) sets out:

- the Ministry's recommendation
- a reference to the relevant part of the NPS-FM and/or NES-F where the amendment would be made
- which briefing (**BRF**) sets out the recommendation and the decision
- the Minister's decision.

For reasons of brevity, some recommendations on changes of a more minor nature are not included in this document. This is the case for drafting adjustments (eg, relating to the drafting of new consent pathways for fills and urban development, the restoration provisions, and technical corrections) that were made following the substantive policy decisions on those points (those substantive decisions being included in the table below). Those drafting adjustments made during the amendment process are set out in Appendix 1 of BRF-1889.

Note that in some instances, while the Minister agreed to recommendations as they were set out in the relevant briefings, drafting was ultimately finalised in line with the policy intent of

those recommendations and therefore the wording in the amended regulations can differ slightly to how it was initially set out in the briefings. The Cabinet paper [Essential Freshwater 2022 Amendments – seeking final agreement on wetland, technical, and stock exclusion amendments](#), provided for final proofing and formatting changes to be made prior to publishing the Cabinet Package on the Ministry website. As such, the final drafting in the amended regulations may not be exactly the same as the wording in this table.

[Table 2](#) sets out the briefings referred to in [table 1](#), including their reference (BRF), title and availability.

Table 1: Summary of recommendations and Minister’s decisions on amendments to the NPS-FM and NES-F

References to the [NPS-FM](#) and [NES-F](#) in this table correspond to those in the amended regulations

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister’s decision
Changes to the definition of ‘natural wetland’					
[Following amendments to the NES-F so that it no longer applies to wetlands in the coastal marine area, the term used in both instruments is now ‘natural inland wetland’. The term natural wetland is retained here only to reflect the wording of the recommendation at the time it was made]					
1	Amend the definition of ‘natural wetland’ in relation to improved pasture, based on a new pasture species list incorporated by reference	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1004 & BRF-1316	Agreed with recommendation
2	Incorporate by reference a <i>Pasture Exclusion Assessment Methodology</i> to support the pasture exclusion in the ‘natural inland wetland’ definition	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-2462	Agreed with recommendation
3	Where a natural wetland is identified as having threatened species, remove the pasture exclusion	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation
4	Remove ‘at the commencement date’, in relation to improved pasture	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation
5	Remove ‘and is subject to temporary rain-derived water pooling’, based on a new wetland delineation hydrology tool	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
6	Specify that a natural wetland includes 'induced wetlands' and include a definition in the NPS-FM for 'induced wetlands'	N/A	N/A	BRF-1004	Disagreed with recommendation [on the basis that the natural wetland definition is the RMA definition (with a set of <i>exclusions</i>) and as such induced wetlands are already included. Guidance will describe induced wetlands]
7	Include a definition for 'wetlands constructed by artificial means'	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation [note that during the course of drafting, rather than a new defined term, the intent was achieved through new parts b) and c) of the definition of 'natural inland wetland']
8	Further amend the definition of 'natural wetland' to address remaining issues identified during the exposure draft consultation, including: <ul style="list-style-type: none"> remove reference to the effects management hierarchy in part (a) to ensure wetlands created for offsetting purposes prior to 2020 are included clarify that the pasture exclusion in part (d) only applies for grazing purposes clarify how the presence of threatened species in part (c)(iii) are identified (ie, in accordance with clause 3.8) 	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation) – cross-refers to the NPS-FM	BRF-1889	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
Principles for offsetting and compensation					
9	Include principles for offsetting and compensation and link the application of these principles to the effects management hierarchy	Appendix 6 (Principles for aquatic offsetting) and Appendix 7 (Principles for aquatic compensation)	N/A	BRF-1004 & BRF-2462	Agreed with recommendation
10	Include a requirement that councils must be satisfied that where aquatic offsetting or aquatic compensation is being pursued, the applicant has <i>had regard</i> to the aquatic offsetting and compensation principles	N/A	N/A	BRF-1004	Agreed with recommendation [note superseded - see row #11]
11	The offset/compensation principles numbered 1-6 in Appendices 6 and 7 of the NPS-FM must be <i>complied with</i>, and the remaining principles must be <i>had regard to</i> by consent applicants	3.22(3)(a)(ii) (Natural inland wetlands)	N/A	BRF-2462	Agreed with recommendation [note this superseded the earlier recommendation and decision that all principles must be <i>had regard to</i> – see row #10]
12	The strengthened requirements to apply consent conditions on monitoring and management of offsets/compensation will apply to all consent pathways	3.22(3)(a)(iii) and (b) (Natural inland wetlands)	N/A	BRF-2462	Agreed with recommendation
Consent pathway – Quarrying activities					
13	Create a new consent pathway for quarrying, subject to the gateway tests and effects management hierarchy	3.22(1)(d) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45A	BRF-1004	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
14	Provide for this new consent pathway for quarrying activities as a discretionary activity	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45A	BRF-1004	Agreed with recommendation
15	Include a definition for 'quarrying' that applies only to the extraction of aggregate at site and not to ancillary activities	N/A	N/A	BRF-1004	Initially agreed [note superseded to utilise 'quarrying activities' instead – see row #16]
16	Proceed as proposed with the consent pathway but refer to 'quarrying activities' throughout the NES-F and NPS-FM to utilise the existing National Planning Standards definition (to ensure ancillary activities are included within the consent pathway)	1.4(3) (terms defined in the National Planning Standards have the meaning in those Standards), 3.22(1)(d) (Natural inland wetlands)	Regulation 3 (interpretation), definition of 'quarrying activities' – cross-refers to the National Planning Standards	BRF-1889	Agreed with recommendation [note this superseded the earlier recommendation and decision to include a definition for 'quarrying' – see row #15]
Consent pathway – Landfills and clean fill areas					
17	Create a new consent pathway for clean fills, managed fills and landfills, subject to the gateway tests and effects management hierarchy	3.22(1)(f) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45B	BRF-1004	Agreed with recommendation
18	Provide for this new consent pathway for clean fill, managed fill and landfill activities as a discretionary activity	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45B	BRF-1004	Agreed with recommendation
19	Make the gateway test in the NPS-FM 'best practicable location' for landfills, clean fills and	3.21 (Definitions relating to wetlands and rivers),	N/A	BRF-1004	Agreed with recommendation [note that subsequently this test was superseded – see BRF-1632 and row #22]

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
	managed fills, and include a definition for 'best practicable location'	3.22(1)(f) (Natural inland wetlands)			
20	Create a new discretionary activity pathway for cleanfill, managed fill and landfill activities	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45B	BRF-1004	Agreed with recommendation
21	Apply the National Planning Standards definitions of 'landfill', 'clean fill areas', and include a new definition for 'managed fill'	1.4(3) (terms defined in the National Planning Standards have the meaning in those Standards)	Regulation 3 (interpretation) – cross-refers to the National Planning Standards)	BRF-1004	Agreed with recommendation [noting that managed fills are captured by the National Planning Standards definition of <i>landfill</i> and therefore a new definition for managed fill (or any reference to managed fills) was not required]
22	Amend the consent pathway for fills at NPS-FM 3.22(1)(f) to ensure the following gateway test, 'there is no practicable alternative location for the activity, or every practicable alternative location would have equal or greater adverse effects on a natural inland wetland,' applies across a region AND Amend 3.22(1)(f)(ii) to read: 'the new or expanded landfill or cleanfill will provide significant national or regional benefits or is required to support nationally or regionally significant extraction of aggregates and/or minerals or urban development that is of a significant national, regional or district benefit'	3.22(1)(f) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45B	BRF-1889	Agreed with recommendations [note this superseded the recommendation and decision to utilise the gateway test 'best practicable location' – see row #19]

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
Consent pathways – Mining and ancillary activities					
23	Create a new consent pathway for mining, subject to the gateway tests and effects management hierarchy (NPS-FM clause 3.22(1))	3.22(1)(e) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45D	BRF-1004	Agreed with recommendation
24	Provide for this new consent pathway for mining as a discretionary activity	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45D	BRF-1004	Agreed with recommendation
25	The consent pathway for the operation and expansion of mines for thermal coal ceases to be available on 31 December 2030 but mining of coking coal can continue past this date	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45D	BRF-1004 [note the decision to apply this to existing mines is in BRF-2462 see below]	Agreed with recommendation
26	Apply the Crown Minerals Act 1991 definition of 'mining' in the NPS-FM and NES-F but do not include 'mining operations'	N/A	N/A	BRF-1004	Initially agreed [note superseded to instead refer to 'the extraction of minerals and ancillary activities' – see row #27]
27	Provide a consent pathway for mining but include ancillary activities by using the phrase 'the extraction of minerals and ancillary activities' throughout (instead of 'mining' as above)	3.22(1)(e) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45D	BRF-1889	Agreed with recommendation [note this superseded the earlier recommendation and decision to apply the Crown Minerals Act 1991 definition of 'mining' – see row #26]

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
28	Do not define 'the extraction of minerals and ancillary activities' but address through guidance	N/A	N/A	BRF-1889	Agreed with recommendation
29	The mining consent pathway for coal applies only to the operation or expansion of <i>existing</i> mines to any type of coal (thermal or coking) from the date the amendment regulations take effect	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45D	BRF-2462	Agreed with recommendation
Proposed consent pathways – Urban development					
30	Create a new consent pathway for 'plan-enabled' urban development, subject to the gateway tests and effects management hierarchy (NPS-FM clause 3.22(1))	3.22(1)(c) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45C	BRF-1004	Agreed with recommendation*
31	Provide for the new consent pathway for 'plan-enabled' urban development as a restricted discretionary activity	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45C	BRF-1004	Agreed with recommendation*
32	Make the gateway test in the NPS-FM 'best practicable location' for 'plan-enabled' urban development, and include a definition for 'best practicable location'	3.21 (Definitions relating to wetlands and rivers), 3.22(1)(c) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45C	BRF-1004	Agreed with recommendation [note drafting changes that replace 'best practicable location' (BRF-1632) and for this to apply within the area of development (row #37)]*
33	Include a gateway test requiring the 'plan-enabled' urban development to provide significant national, regional or <i>district</i> benefits	3.22(1)(c) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45C	BRF-1004	Agreed with recommendation*

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
34	Create a new restricted discretionary activity pathway for 'plan-enabled' urban development	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation R45C	BRF-1004	Agreed with recommendation*
35	Utilise the definition of 'plan-enabled' urban development for the proposed urban development consent pathway in the NPS-FM and NES-F as set out in the NPS-UD	N/A	N/A	BRF-1004	Agreed with recommendation*
36	Require the consent authority to be satisfied that there is clear provision, including who is responsible, for the ongoing maintenance and management of aquatic offsets, once the development phase is completed	3.22(1) (Natural inland wetlands)	N/A	BRF-1004	Agreed with recommendation [note subsequent decision that this will apply to all consent pathways – see row #39]
37	Amend the NPS-FM provision for urban development to ensure the gateway test - ' <i>no practicable alternative location for the activity, or every other practicable location would have equal or greater adverse effects on a natural inland wetland</i> ' applies <u>within the development area</u> [Note, that it is appropriate for the same test in respect of landfills and clean fill areas to apply <u>across the region</u>]	3.22(1)(c) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 45C	BRF-1889	Agreed with recommendation
38	Include the following additional matters for discretion in regulation 56 NES-F a) Whether the activity is necessary for the purpose of urban development that will	N/A	Part 3 – Subpart 1 (Natural inland wetlands) Regulation 56	BRF-1889	Agreed with recommendations

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
	<p>contribute to a well-functioning urban environment (as defined in the National Policy Statement for Urban Development); and</p> <p>b) Whether the urban development will provide significant national, regional or district benefits; and</p> <p>c) Whether there is no other practicable alternative location in the area of development for the activity, or every other practicable alternative location would have equal or greater adverse effects on a natural inland wetland; and</p> <p>d) The effects of the activity are managed through applying the effects management hierarchy and, if aquatic offsetting or aquatic compensation is applied, the offsetting or compensation will be maintained and managed over time</p>				
39	<p>Insert a general requirement into the NPS-FM to ensure that if offsetting or compensation is applied, the regional council is satisfied that the offsetting or compensation will be maintained and managed over time, ensuring that this applies to all consent pathways – not just urban development.</p>	3.22(3) (Natural inland wetlands)	N/A	BRF-1889	Agreed with recommendation

*Note later drafting changes replaced 'plan enabled' with 'well-functioning urban environment' (BRF-1632)

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
Additional consent pathways					
40	Provide for the construction and maintenance of water storage by including it within the definition of 'specified infrastructure' in the NPS-FM	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definition of 'specified infrastructure' – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation
41	Do not create a new consent pathway for ski areas, based on an appropriate pathway being already available in regional plans	N/A	N/A	BRF-1004	Agreed with recommendation [note superseded to provide for ski area infrastructure within specified infrastructure - see row #42]
42	Include ski area infrastructure within the definition of specified infrastructure and define it (as follows below)	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definition of 'specified infrastructure' – cross-refers to the NPS-FM	BRF-1889	Agreed with recommendation [note this superseded the recommendation and decision to not create a new consent pathway for ski areas – see row #43]
43	Add a definition: Ski area infrastructure includes transport mechanisms (such as aerial and surface lifts, roads, and tracks for any purpose), facilities for the loading or unloading of passengers or goods, facilities or systems for water, sewerage, electricity, gas and communications networks, snowmaking and snow safety but excludes carparks or access roads to the ski area	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definition of 'specified infrastructure' – cross-refers to the NPS-FM	BRF-1889	Agreed with recommendation, however requested changing the proposed definition to not explicitly exclude carparks or access roads to the ski area as there was no clear rationale to differentiate them from other ski area infrastructure

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
44	Include provision for the New Zealand Defence Force within the NPS-FM definition of specified infrastructure	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definition of 'specified infrastructure' – cross-refers to the NPS-FM	BRF-1889	Agreed with recommendation
Wetlands in the coastal marine area					
45	Clarify that the new consent pathways (quarries; mining; clean, managed and landfills; and urban development) apply only to natural inland wetlands	3.22(1) (Natural inland wetlands)	Part 3 – Subpart 1 (Natural wetlands)	BRF-1316	Agreed with recommendation
46	Amend the NES-F so the wetland provisions do not apply to the coastal marine area, by replacing all references to 'natural wetland' with 'natural inland wetland'	N/A	Part 3 – Subpart 1 (Natural wetlands)	BRF-2072	Agreed with recommendation
47	Apply the NPS-FM definition of 'natural inland wetland'	N/A	Regulation 3 (interpretation), definition of 'natural inland wetland' – cross-refers to the NPS-FM	BRF-2072	Agreed with recommendation
Amendments to the restoration provisions					
48	Include definitions for 'maintenance' and 'biosecurity'	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definitions of 'biosecurity' and 'wetland'	BRF-1004	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
			maintenance' – cross-refers to the NPS-FM		
49	Amend the definition of 'restoration', referring to 'natural wetlands' instead of 'natural inland wetlands'	3.21 (Definitions relating to wetlands and rivers)	Regulation 3 (interpretation), definition of 'restoration' – cross-refers to the NPS-FM	BRF-1004	Agreed with recommendation [note change no longer required following decisions in BRF-2072]
50	In relation to permitted and restricted discretionary activities for the restoration of natural wetlands, include 'wetland maintenance' and 'biosecurity' as additional purposes	N/A	Regulations 38 and 39	BRF-1004	Agreed with recommendation
51	In relation to permitted activities for the restoration of natural wetlands, amend the wording ('affect' instead of 'occur over') of the area condition	N/A	Regulation 38(4)(b)	BRF-1004	Agreed with recommendation [note superseded to retain 'occur over' – see row #52]
52	In relation to permitted activities for the restoration of natural wetlands, do not progress the proposed change to amend the wording ('affect' instead of 'occur over') of the area condition	N/A	Regulation 38(4)(b)	BRF-1889	Agreed with recommendation [note this superseded (and reversed) the recommendation and decision to amend the wording to 'affect' - see row #51]
53	In relation to permitted activities for the restoration of natural wetlands, amend the area condition to include exemptions for maintenance (weed control), biosecurity and restoration plans	N/A	Regulation 38(5)	BRF-1004	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
54	<p>In relation to planting exotic species, amend regulation 38(5) to clarify that it only applies to planting for restoration purposes</p> <p>AND</p> <p>Make a consequential amendment to the permitted activities in regulation 40(5) (scientific research), regulation 43(5) (maintaining wetland utility structures) and regulation 46(5) (maintaining specified and other infrastructure) so that the exception relates to planting for restoration purposes</p>	N/A	Regulation 38, 40(5), 43(5) and 46(5)	BRF-1004	Agreed with recommendations
55	Amend the general conditions on natural wetland activities to prevent debris and sediment being placed in a position where it may enter any natural wetland	N/A	Regulation 55(3)(e)	BRF-1004	Agreed with recommendation
56	Amend regulations on what local authorities may and must not charge for, so that councils cannot charge to receive and review notifications of intended permitted activity work for wetland restoration, maintenance and biosecurity	N/A	Regulation 75	BRF-1004	Agreed with recommendation
Additional matters					
57	Amend Policy 6 to clarify that there is to be no further loss of natural inland wetland extent, their values are protected, and their restoration is	N/A	N/A	BRF-1004	Disagreed with recommendation on the basis that:

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
	promoted, except where loss is a consequence of consented activities				<ul style="list-style-type: none"> other policies within the NPS-FM have clauses that provide exclusions/caveats, and national direction should be interpreted as a whole
58	In relation to non-complying and prohibited activities for the drainage of natural wetlands, remove the words 'or discharge' from the chapeau in the regulations	N/A	Regulations 52(2) and 53(2)	BRF-1004	Agreed with recommendation
59	Amend every reference to 'discharges of water' to specify that they are only regulated if the activity has, or is likely to have, adverse effects on the hydrological regime or biodiversity values of a natural wetland	N/A	Part 3 – Subpart 1 (Natural wetlands)	BRF-1004	Agreed with recommendation
60	Clarify that the discharge rules are about changes in water levels	N/A	All regulations referencing the discharge of water to water	BRF-1889	Agreed with recommendation
61	In relation to permitted activities for the maintenance and operation of specified infrastructure and other infrastructure, amend the size condition to include an exemption for fish passage	N/A	Regulation 46(4)(b)	BRF-1004	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
62	<p>Insert 'or replacement' to regulation 46(4)(b):</p> <p><i>'(b) the activity must not be for the purpose of increasing the size of the specified infrastructure or other infrastructure unless the increase, <u>or replacement</u>, is to provide for the passage of fish in accordance with these regulations'</i></p>	N/A	Regulation 46(4)(b)	BRF-1889	Agreed with recommendation
63	<p>In relation to permitted activities for the maintenance and operation of public flood control, flood protection or drainage works that are specified infrastructure, disapply the following general conditions in regulation 55:</p> <ul style="list-style-type: none"> • regulation 55(2) • regulation 55(3)(b)(c) and (d) • regulation 55(5) 	N/A	Regulation 46	BRF-1004 & BRF-1316	Agreed with recommendation
64	<p>In relation to restricted discretionary activities for the maintenance and operation of specified infrastructure and other infrastructure, amend the bed and hydrological condition to include an exemption for the ongoing taking, use, damming, diversion, or discharge of water</p>	N/A	Regulation 47(6)	BRF-1004	Agreed with recommendation
65	<p>Allow containers of 20 litres or less to be used to refuel machinery (for the purposes of sphagnum moss harvesting) within a natural wetland</p>	N/A	Schedule 4, Condition (7)	BRF-1004	Agreed with recommendation
66	<p>Clarify that the definition of vegetation clearance does not include 'grazing'</p>	N/A	Regulation 3 (interpretation),	BRF-1889	Agreed with recommendation

Row #	Proposed amendment	NPS-FM reference	NES-F reference	BRF reference	Minister's decision
			definition of 'vegetation clearance'		
Technical changes					
67	Do not proceed with amending 'river' to 'river bed' as proposed in the exposure draft	N/A	N/A	BRF-1889	Agreed with recommendation [note this superseded (and reversed) the proposal set out in the exposure draft]
68	Do not proceed with amending 'exceedance criteria' to 'temporal exceedance criteria' as proposed in the exposure draft	N/A	N/A	BRF-1889	Agreed with recommendation [note this superseded (and reversed) the proposal set out in the exposure draft]
69	Enable councils to use forms of nitrogen and phosphorous, other than dissolved inorganic nitrogen (DIN) and dissolved reactive phosphorus (DRP), as appropriate (eg, total nitrogen and total phosphorus)	3.11 to 3.14 (special provisions for attributes affected by nutrients)	N/A	BRF-1889	Agreed with recommendation
70	Clarify that limits must be set for DIN/DRP concentrations once derived, not the attribute from which they are derived.	3.11 to 3.14 (special provisions for attributes affected by nutrients)	N/A	BRF-1889	Agreed with recommendation
71	Ensure that derived nutrient concentrations are not treated as target attribute states	3.11 to 3.14 (special provisions for attributes affected by nutrients) & 1.4 (interpretation)	N/A	BRF-1889	Agreed with recommendation

Table 2: List of relevant briefings referred to in Table 1

Briefing reference	Briefing title	Availability
BRF-1004	Essential Freshwater 2021 amendments – seeking drafting decisions for Wetlands	These briefings are included within the final report and recommendations , published on the Ministry for the Environment website.
BRF-1316	Aide memoire to support discussion of the wetland advice in BRF-1004	
BRF-1889	Essential Freshwater – results of the exposure draft consultation on technical changes and wetland amendments	
BRF-2072	Managing our wetlands in the coastal marine area	
BRF-2462	Cover briefing for Cabinet paper: Essential Freshwater 2022 Amendments – seeking final agreement on wetlands, technical, and stock exclusion amendment	This briefing is published on the Ministry for the Environment website .