



# **Resource Management (National Environmental Standards for Freshwater) Amendment Regulations (No 2) 2022**

Cindy Kiro, Governor-General

## **Order in Council**

At Wellington this 5th day of December 2022

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 43 of the Resource Management Act 1991—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 44 of that Act.

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## Regulations

### 1 Title

These regulations are the Resource Management (National Environmental Standards for Freshwater) Amendment Regulations (No 2) 2022.

### 2 Commencement

These regulations come into force on 5 January 2023.

### 3 Principal regulations

These regulations amend the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

**4 Regulation 3 amended (Interpretation)**

- (1) In regulation 3, revoke the definitions of **improved pasture** and **natural wetland**.
- (2) In regulation 3, insert in their appropriate alphabetical order:

**biosecurity** has the meaning given by the National Policy Statement for Freshwater Management

**cleanfill area** has the meaning given by the National Planning Standards 2019

**effects management hierarchy** has the meaning given by the National Policy Statement for Freshwater Management

**functional need** has the meaning given by the National Policy Statement for Freshwater Management

**landfill** has the meaning given by the National Planning Standards 2019

**natural inland wetland** has the meaning given by the National Policy Statement for Freshwater Management

**quarrying activities** has the meaning given by the National Planning Standards 2019

**well-functioning urban environment** has the meaning given by the National Policy Statement on Urban Development 2020

**wetland maintenance** has the meaning given by the National Policy Statement for Freshwater Management

- (3) In regulation 3, definition of **setback**, replace “natural wetland” with “natural inland wetland” in each place.
- (4) In regulation 3, definition of **values**, replace “natural wetland” with “natural inland wetland”.
- (5) In regulation 3, definition of **vegetation clearance**, replace paragraph (c)(v) with:

(v) grazing

**5 Regulation 10 amended (Discretionary activities)**

Replace regulation 10(3)(a) with:

- (a) the base area of the feedlot must be sealed so that water cannot permeate at a rate greater than  $10^{-9}$  m/s; and

**6 Regulation 13 amended (Permitted activities: stockholding areas for larger and older cattle)**

Replace regulation 13(4)(a) with:

- (a) the base area of the stockholding area must be sealed so that water cannot permeate at a rate greater than  $10^{-9}$  m/s; and

**7 Regulation 24 amended (Discretionary activities: conditions on granting resource consents)**

Replace regulation 24(1) with:

- (1) A resource consent for an activity that is a discretionary activity under this subpart must not be granted unless the consent authority is satisfied that granting the consent will not result in an increase in either of the following:
- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020;
  - (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of 2 September 2020.

**8 Regulation 30 amended (Discretionary activities)**

Replace regulation 30(3) with:

- (3) A resource consent for the discretionary activity must not be granted unless the consent authority is satisfied that granting the consent will not result in an increase in either of the following:
- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020;
  - (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of 2 September 2020.

**9 Regulation 32 amended (Interpretation of this subpart)**

In regulation 32, definition of **synthetic nitrogen fertiliser**, paragraph (c)(i), after “is”, insert “wholly”.

**10 Subpart 1 heading in Part 3 replaced**

In Part 3, replace the subpart 1 heading with:

Subpart 1—Natural inland wetlands

**11 New regulation 37A and cross-heading inserted**

After regulation 37, insert:

*Meaning in subpart of applying effects management hierarchy*

**37A Meaning in this subpart of applying effects management hierarchy**

In this subpart, a requirement to **apply the effects management hierarchy** includes a requirement to apply clause 3.22(3) of the National Policy Statement for Freshwater Management as if a reference in that clause to a regional council were a reference to the consent authority.

## 12 Regulation 38 and cross-heading replaced

Replace regulation 38 and the cross-heading above regulation 38 with:

### *Restoration, wetland maintenance, and biosecurity of natural inland wetlands*

#### **38 Permitted activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a permitted activity if it—
  - (a) is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) complies with the conditions.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a permitted activity if it—
  - (a) is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) complies with the conditions.
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural inland wetland is a permitted activity if—
  - (a) the activity is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) there is a hydrological connection between the taking, use, damming, diversion, or discharge and the wetland; and
  - (c) the taking, use, damming, diversion, or discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (d) the activity complies with the conditions.

#### *Conditions*

- (4) The conditions are that—
  - (a) the activity must comply with the general conditions on natural inland wetland activities in regulation 55; and
  - (b) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not occur over more than 500 m<sup>2</sup> or 10% of the area of the natural inland wetland, whichever is smaller; and
  - (c) if the activity is a discharge of water, it must not be a restricted discretionary activity as described in regulation 39(3A).
- (5) However, the condition in subclause (4)(b) does not apply if—
  - (a) the earthworks or land disturbance is for planting for restoration or wetland maintenance purposes; or

- (b) the vegetation clearance, the earthworks, or the land disturbance is for clearance of exotic vegetation for biosecurity purposes; or
  - (c) the vegetation clearance, the earthworks, or the land disturbance is for clearance of indigenous vegetation that is demonstrably necessary for biosecurity purposes; or
  - (d) the vegetation clearance, the earthworks, or the land disturbance is for clearance of exotic vegetation, using hand-held tools, for restoration or wetland maintenance; or
  - (e) the vegetation clearance, the earthworks, or the land disturbance is for clearance of exotic vegetation (other than clearance to which paragraph (d) applies) for restoration or wetland maintenance that is undertaken in accordance with—
    - (i) a restoration plan; or
    - (ii) a certified freshwater farm plan.
- (6) The restoration plan referred to in subclause (5)(e)(i) must—
  - (a) assess any restoration or wetland maintenance activities against the relevant general conditions in regulation 55; and
  - (b) address the matters in Schedule 2 that are relevant to the activity proposed; and
  - (c) be provided to the council at least 10 working days before the clearance begins.
- (7) The certified freshwater farm plan referred to in subclause (5)(e)(ii) must—
  - (a) assess any restoration or wetland maintenance activities against the relevant general conditions in regulation 55; and
  - (b) address the matters in Schedule 2 that are relevant to the activity proposed.
- (8) Where a certified freshwater farm plan is used under this regulation, the activity is exempt from needing to comply with regulation 55(2).

### **13 Regulation 39 amended (Restricted discretionary activities)**

- (1) Replace regulation 39(1) to (3) with:
  - (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it—
    - (a) is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
    - (b) does not comply with any of the conditions in regulation 38(4).
  - (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it—

- (a) is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) does not comply with any of the conditions in regulation 38(4).
- (3) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the activity is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (d) the activity does not comply with the condition in regulation 38(4)(a).
- (3A) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the discharge is for the purpose of natural inland wetland restoration, wetland maintenance, or biosecurity; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (e) the discharge does not comply with the condition in regulation 38(4)(a).
- (2) After regulation 39(6), insert:
  - Consent authority must apply effects management hierarchy*
- (7) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

#### **14 Regulation 40 amended (Permitted activities)**

- (1) In regulation 40(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 40(3) with:
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural inland wetland is a permitted activity if—
  - (a) the activity is for the purpose of scientific research; and
  - (b) there is a hydrological connection between the taking, use, damming, diversion, or discharge and the wetland; and



- (c) the taking, use, damming, diversion, or discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (d) the activity complies with the conditions.
- (3) In regulation 40(4)(a) and (c), replace “natural wetland” with “natural inland wetland” in each place.
- (4) After regulation 40(4)(c), insert:
  - (d) if the activity is a discharge of water, it must not be a restricted discretionary activity as described in regulation 41(3A).

**15 Regulation 41 amended (Restricted discretionary activities)**

- (1) In regulation 41(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 41(3) with:
- (3) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the activity is for the purpose of scientific research; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (d) the activity does not comply with the conditions in regulation 40(4), but does comply with the conditions in subclause (4) of this regulation.
- (3) After regulation 41(3), insert:
- (3A) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the discharge is for the purpose of scientific research; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (e) it does not comply with the conditions in regulation 40(4), but does comply with the conditions in subclause (4) of this regulation.
- (4) In regulation 41(4)(b) and (c), replace “natural wetland” with “natural inland wetland”.
- (5) After regulation 41(6), insert:

*Consent authority must apply effects management hierarchy*

- (7) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

**16 Regulation 42 amended (Restricted discretionary activities)**

- (1) In regulation 42(1) and (2), replace “natural wetland” with “natural inland wetland”.

- (2) Replace regulation 42(3) with:

- (3) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—

- (a) the activity is for the purpose of constructing a wetland utility structure; and
- (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
- (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland; and
- (d) the activity complies with the conditions.

- (3) After regulation 42(3), insert:

- (3A) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—

- (a) the discharge is for the purpose of constructing a wetland utility structure; and
- (b) there is a hydrological connection between the discharge and the wetland; and
- (c) the discharge will enter the wetland; and
- (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
- (e) it complies with the conditions.

- (4) In regulation 42(4)(b) and (c), replace “natural wetland” with “natural inland wetland”.

- (5) After regulation 42(6), insert:

*Consent authority must apply effects management hierarchy*

- (7) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

**17 Regulation 43 amended (Permitted activities)**

- (1) In regulation 43(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 43(3) with:
  - (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural inland wetland is a permitted activity if—
    - (a) the activity is for the purpose of maintaining a wetland utility structure; and
    - (b) there is a hydrological connection between the taking, use, damming, diversion, or discharge and the wetland; and
    - (c) the taking, use, damming, diversion, or discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
    - (d) the activity complies with the conditions.
- (3) In regulation 43(4)(a) and (d)(i), replace “natural wetland” with “natural inland wetland”.
- (4) After regulation 43(4)(d), insert:
  - (e) if the activity is a discharge of water, it must not be a restricted discretionary activity as described in regulation 44(3A).

**18 Regulation 44 amended (Restricted discretionary activities)**

- (1) In regulation 44(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 44(3) with:
  - (3) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
    - (a) the activity is for the purpose of maintaining a wetland utility structure; and
    - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
    - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland; and
    - (d) the activity does not comply with any of the conditions in regulation 43(4), but does comply with the conditions in subclause (4) of this regulation.
- (3) After regulation 44(3), insert:
  - (3A) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—

- (a) the discharge is for the purpose of maintaining a wetland utility structure; and
- (b) there is a hydrological connection between the discharge and the wetland; and
- (c) the discharge will enter the wetland; and
- (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
- (e) it does not comply with any of the conditions in regulation 43(4), but does comply with the conditions in subclause (4) of this regulation.

(4) In regulation 44(4)(b) and (c), replace “natural wetland” with “natural inland wetland”.

(5) After regulation 44(6), insert:

*Consent authority must apply effects management hierarchy*

(7) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

#### **19 Regulation 45 amended (Discretionary activities)**

(1) In regulation 45(1), (2), and (3), replace “natural wetland” with “natural inland wetland” in each place.

(2) Replace regulation 45(4) with:

(4) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—

- (a) the activity is for the purpose of constructing or upgrading specified infrastructure; and
- (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
- (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland.

(5) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—

- (a) the discharge is for the purpose of constructing or upgrading specified infrastructure; and
- (b) there is a hydrological connection between the discharge and the wetland; and
- (c) the discharge will enter the wetland; and
- (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.

- (6) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—
- (a) satisfied itself that the specified infrastructure will provide significant national or regional benefits; and
  - (b) satisfied itself that there is a functional need for the specified infrastructure in that location; and
  - (c) applied the effects management hierarchy.

**20 New regulations 45A to 45D and cross-headings inserted**

After regulation 45, insert:

*Quarrying activities*

**45A Discretionary activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of quarrying activities.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of quarrying activities.
- (3) Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a discretionary activity if it—
  - (a) is for the purpose of quarrying activities; and
  - (b) results, or is likely to result, in the complete or partial drainage of all or part of the wetland.
- (4) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the activity is for the purpose of quarrying activities; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland.
- (5) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the discharge is for the purpose of quarrying activities; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.

- (6) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—
- (a) satisfied itself that the quarrying activity will provide significant national or regional benefits; and
  - (b) satisfied itself that there is a functional need for the quarrying activity in that location; and
  - (c) applied the effects management hierarchy.

*Landfills and cleanfill areas*

**45B Discretionary activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of constructing or operating a landfill or a cleanfill area.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of constructing or operating a landfill or a cleanfill area.
- (3) Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a discretionary activity if it—
  - (a) is for the purpose of constructing or operating a landfill or a cleanfill area; and
  - (b) results, or is likely to result, in the complete or partial drainage of all or part of the wetland.
- (4) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the activity is for the purpose of constructing or operating a landfill or a cleanfill area; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland.
- (5) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the discharge is for the purpose of constructing or operating a landfill or a cleanfill area; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.

- (6) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—
- (a) satisfied itself that the landfill or cleanfill area—
    - (i) will provide significant national or regional benefits; or
    - (ii) is required to support the quarrying activities regulated under regulation 45A; or
    - (iii) is required to support urban development regulated under regulation 45C; or
    - (iv) is required to support the extraction of minerals regulated under regulation 45D; and
  - (b) satisfied itself that—
    - (i) there is no practicable alternative location for the landfill or cleanfill area in the region; or
    - (ii) every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland wetland; and
  - (c) applied the effects management hierarchy.

*Urban development*

**45C Restricted discretionary activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it is for the purpose of constructing urban development.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it is for the purpose of constructing urban development.
- (3) Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a restricted discretionary activity if it—
  - (a) is for the purpose of constructing urban development; and
  - (b) results in, or is likely to result in, the complete or partial drainage of all or part of the wetland.
- (4) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the activity is for the purpose of constructing urban development; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland.

- (5) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
- (a) the discharge is for the purpose of constructing urban development; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.
- (6) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first—
- (a) satisfied itself that the urban development—
    - (i) will contribute to a well-functioning urban environment; and
    - (ii) will provide significant national, regional, or district benefits; and
  - (b) satisfied itself that—
    - (i) there is no practicable alternative location for the activity within the area of the development; or
    - (ii) every other practicable alternative location in the area of the development would have equal or greater adverse effects on a natural inland wetland; and
  - (c) applied the effects management hierarchy.
- (7) A resource consent for a restricted discretionary activity under this regulation must not be granted if the activity—
- (a) occurs on land other than land that is identified for urban development in the operative provisions of a regional or district plan; or
  - (b) occurs on land that is zoned in a district plan as general rural, rural production, or rural lifestyle.
- (8) The limitation in subclause (7) on granting resource consent does not apply if—
- (a) the urban development is in the Bay of Plenty region; and
  - (b) the activity is necessary for the purpose of urban development in areas specifically identified as planned urban growth areas in the SmartGrowth Programme.
- (9) In this regulation, **SmartGrowth Programme** means the SmartGrowth Urban Form and Transport Initiative Connected Centres Programme incorporated by reference in clause 1.8 of the National Policy Statement for Freshwater Management.
- (10) This subclause and subclauses (8) and (9) are revoked on 8 December 2027.



*Matters to which discretion restricted*

- (11) The discretion of a consent authority is restricted to the matters set out in regulation 56 and the extent to which—
- (a) the urban development will be of significant national, regional, or district benefit; and
  - (b) the activity contributes to a well-functioning urban environment; and
  - (c) there is another practicable alternative location in the area of development for the activity, and the extent to which other practicable alternative locations within the area of development would have equal or greater adverse effects on a natural inland wetland; and
  - (d) an alternative configuration or design is practicable that would avoid, minimise, or remedy adverse effects on the natural inland wetland extent and values; and
  - (e) the effects of the activity will be managed through applying the effects management hierarchy.

*Extraction of minerals and ancillary activities*

**45D Discretionary activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of the extraction of minerals and ancillary activities.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of the extraction of minerals and ancillary activities.
- (3) Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a discretionary activity if it—
  - (a) is for the purpose of the extraction of minerals and ancillary activities; and
  - (b) results, or is likely to result, in the complete or partial drainage of all or part of the wetland.
- (4) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the activity is for the purpose of the extraction of minerals and ancillary activities; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland.

- (5) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a discretionary activity if—
  - (a) the discharge is for the purpose of the extraction of minerals and ancillary activities; and
  - (b) there is a hydrological connection between the discharge and the wetland; and
  - (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.
- (6) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—
  - (a) satisfied itself that the extraction of the minerals will provide significant national or regional benefits; and
  - (b) satisfied itself that there is a functional need for the extraction of minerals and ancillary activities in that location; and
  - (c) applied the effects management hierarchy.
- (7) In relation to the extraction of coal and ancillary activities, no person may apply for a consent to carry out any activity under subclauses (1) to (5) unless the activity is for the purpose of the extraction of coal or ancillary activities as part of operating or extending a coal mine that was lawfully established before 5 January 2023.
- (8) At the close of 31 December 2030, the extraction of coal (other than coking coal) is excluded from the purposes for which consent may be obtained under this regulation.

## **21 Regulation 46 amended (Permitted activities)**

- (1) In regulation 46(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 46(3) with:
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural inland wetland is a permitted activity if—
  - (a) the activity is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
  - (b) there is a hydrological connection between the taking, use, damming, diversion, or discharge and the wetland; and
  - (c) the taking, use, damming, diversion, or discharge will change, or is likely to change, the water level range or hydrological function of the wetland.
- (3) Replace regulation 46(4)(a) and (b) with:

- (a) the activity must comply with the general conditions on natural inland wetland activities in regulation 55, but regulation 55(2), (3)(b) to (d), and (5) do not apply if the activity is for the purpose of maintaining or operating—
    - (i) hydro-electricity infrastructure; or
    - (ii) any public flood control, flood protection, or drainage works that are specified infrastructure; and
  - (b) the activity must not be for the purpose of increasing the size, or replacing part, of the specified infrastructure or other infrastructure unless the increase or replacement is to provide for the passage of fish in accordance with these regulations; and
- (4) In regulation 46(4)(d) and (e)(ii), replace “natural wetland” with “natural inland wetland”.
- (5) After regulation 46(4)(e), insert:
  - (f) if the activity is a discharge of water, it must not be a restricted discretionary activity as described in regulation 47(3A).

## **22 Regulation 47 amended (Restricted discretionary activities)**

- (1) In regulation 47(1) and (2), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 47(3) with:
- (3) The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the activity is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
  - (b) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (c) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (d) the activity does not comply with any of the conditions in regulation 46(4), but does comply with the conditions in subclause (5) of this regulation.
- (3) After regulation 47(3), insert:
- (3A) The discharge of water into water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—
  - (a) the discharge is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
  - (b) there is a hydrological connection between the discharge and the wetland; and

- (c) the discharge will enter the wetland; and
  - (d) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
  - (e) it does not comply with any of the conditions in regulation 46(4), but does comply with the conditions in subclause (5) of this regulation.
- (4) In regulation 47(5)(b) and (c), replace “natural wetland” with “natural inland wetland”.
- (5) Replace regulation 47(6) with:
- (6) However,—
- (a) the condition in subclause (5)(c) does not apply to any part of the bed that is in direct contact with a part of the specified infrastructure or other infrastructure that was constructed for maintenance purposes; and
  - (b) the 30-day limit in the condition in subclause (5)(c) does not apply if the maintenance and operation of the infrastructure necessitates the ongoing taking, use, damming, diversion, or discharge of water.
- (6) After regulation 47(7), insert:
- When consent authority must not grant resource consent*
- (8) A resource consent for a restricted discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

**23 Regulation 48 amended (Permitted activity: existing sphagnum moss harvests)**

In regulation 48(1) and (2)(b)(ii), replace “natural wetland” with “natural inland wetland”.

**24 Regulation 49 amended (Discretionary activity: new sphagnum moss harvests)**

- (1) In regulation 49(1) and (3)(c), replace “natural wetland” with “natural inland wetland”.
- (2) After regulation 49(2), insert:

*When consent authority must not grant resource consent*

- (2A) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first applied the effects management hierarchy.

**25 Regulation 50 amended (Permitted activities)**

In regulation 50(1) and (2), replace “natural wetland” with “natural inland wetland” in each place.

**26 Regulation 51 amended**

- (1) In regulation 51(2) and (3), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 51(4) with:
  - (4) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural inland wetland is a permitted activity if—
    - (a) the activity is for the purpose of natural hazard works; and
    - (b) there is a hydrological connection between the taking, use, damming, diversion, or discharge and the wetland; and
    - (c) the taking, use, damming, diversion, or discharge will change, or is likely to change, the water level range or hydrological function of the wetland; and
    - (d) the activity complies with the conditions.
- (3) In regulation 51(5)(a)(ii), (c), and (d)(i), replace “natural wetland” with “natural inland wetland”.

**27 Cross-heading above regulation 52 replaced**

Replace the cross-heading above regulation 52 with:

*Drainage of natural inland wetlands*

**28 Regulation 52 amended (Non-complying activities)**

- (1) In regulation 52(1), replace “natural wetland” with “natural inland wetland” in each place.
- (2) In regulation 52(2),—
  - (a) replace “diversion, or discharge” with “or diversion”; and
  - (b) replace “natural wetland” with “natural inland wetland” in each place.

**29 Regulation 53 amended (Prohibited activities)**

- (1) In regulation 53(1), replace “natural wetland” with “natural inland wetland” in each place.
- (2) In regulation 53(2),—
  - (a) replace “diversion, or discharge” with “or diversion”; and
  - (b) replace “natural wetland” with “natural inland wetland” in each place.

**30 Regulation 54 amended (Non-complying activities)**

- (1) In regulation 54(a) and (b), replace “natural wetland” with “natural inland wetland”.
- (2) Replace regulation 54(c) with:

- (c) the taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland if—
  - (i) there is a hydrological connection between the taking, use, damming, or diversion and the wetland; and
  - (ii) the taking, use, damming, or diversion will change, or is likely to change, the water level range or hydrological function of the wetland;
- (d) the discharge of water into water within, or within a 100 m setback from, a natural inland wetland if—
  - (i) there is a hydrological connection between the discharge and the wetland; and
  - (ii) the discharge will enter the wetland; and
  - (iii) the discharge will change, or is likely to change, the water level range or hydrological function of the wetland.

**31 Regulation 55 amended (General conditions on natural wetland activities)**

- (1) In the heading to regulation 55, after “**natural**”, insert “**inland**”.
- (2) In regulation 55(3)(a), (c), and (d), replace “natural wetland” with “natural inland wetland”.
- (3) Replace regulation 55(3)(e) with:
  - (e) debris and sediment must not be placed—
    - (i) within a setback of 10 m from any natural inland wetland; or
    - (ii) in a position where it may enter any natural inland wetland.
- (4) In regulation 55(5)(c) and (d), replace “natural wetland” with “natural inland wetland”.
- (5) In regulation 55(7)(b), (c), (d), and (e), replace “natural wetland” with “natural inland wetland”.
- (6) In regulation 55(8)(a), replace “natural wetlands” with “natural inland wetlands”.
- (7) In regulation 55(9)(a), replace “natural wetland” with “natural inland wetland” in each place.
- (8) In regulation 55(12)(a), (b), (c), and (d), replace “natural wetland” with “natural inland wetland” in each place.
- (9) In regulation 55(13)(c), replace “natural wetland” with “natural inland wetland” in each place.

**32 Regulation 56 amended (Restricted discretionary activities: matters to which discretion is restricted)**

- (1) In regulation 56(a), replace “natural wetland” with “natural inland wetland” in each place.

- (2) In regulation 56(c) and (f), replace “natural wetland” with “natural inland wetland”.
- (3) After regulation 56(e), insert:
  - (ea) the extent to which the effects of the activity will be managed through applying the effects management hierarchy:

**33 New regulation 56A inserted (Meaning in this subpart of applying effects management hierarchy)**

Before regulation 57, insert:

**56A Meaning in this subpart of applying effects management hierarchy**

In this subpart, a requirement to **apply the effects management hierarchy** includes a requirement to apply clause 3.24(3) of the National Policy Statement for Freshwater Management as if a reference in that clause to a regional council were a reference to the consent authority.

**34 Regulation 57 amended (Discretionary activities)**

In regulation 57, insert as subclause (2):

- (2) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—
  - (a) satisfied itself that there is a functional need for the reclamation of the river bed in that location; and
  - (b) applied the effects management hierarchy.

**35 Regulation 75 replaced (Local authorities may charge for monitoring permitted activities)**

Replace regulation 75 with:

**75 What local authorities may and must not charge for**

- (1) A local authority may charge for monitoring activities that are permitted activities under these regulations if the authority is responsible for monitoring those activities.
- (2) However, a local authority must not charge to receive or review notifications of intended permitted activity work (including restoration plans, where required) for wetland restoration, wetland maintenance, or biosecurity.

**36 Schedule 2 amended**

- (1) In the Schedule 2 heading, after “**natural**”, insert “**inland**”.
- (2) In Schedule 2, heading to clause 1, after “**natural**”, insert “**inland**”.
- (3) In Schedule 2, clause 1(e) and (f), replace “natural wetland” with “natural inland wetland”.
- (4) In Schedule 2, replace clause 1(g) with:

(g) the details of any management partners, including tangata whenua or key stakeholders, involved in the restoration plan.

- (5) In Schedule 2, heading to clause 2, after “**natural**”, insert “**inland**”.
- (6) In Schedule 2, clause 2, replace “natural wetland” with “natural inland wetland” in each place.
- (7) In Schedule 2, heading to clause 3, after “**natural**”, insert “**inland**”.
- (8) In Schedule 2, clause 3(a) and (b), replace “natural wetland” with “natural inland wetland”.
- (9) In Schedule 2, heading to clause 4, after “**natural**”, insert “**inland**”.
- (10) In Schedule 2, clause 4, replace “natural wetland” with “natural inland wetland”.
- (11) In Schedule 2, clause 5, replace “natural wetland” with “natural inland wetland” in each place.

### 37 Schedule 3 amended

- (1) In Schedule 3, heading to clause 1, after “**natural**”, insert “**inland**”.
- (2) In Schedule 3, clause 1(g) and (i), replace “natural wetland” with “natural inland wetland”.

### 38 Schedule 4 amended

- (1) In the Schedule 4 heading, after “**natural**”, insert “**inland**”.
- (2) In Schedule 4, form heading, after “natural”, insert “inland”.
- (3) In Schedule 4, form, under the heading “**General information**”, item 4, after “natural”, insert “inland”.
- (4) In Schedule 4, form, under the heading “**Checklist of conditions for harvesting**”, item 2, replace “natural wetland” with “natural inland wetland” in each place.
- (5) In Schedule 4, form, under the heading “**Checklist of conditions for harvesting**”, items 3 and 5, replace “natural wetland” with “natural inland wetland”.
- (6) In Schedule 4, form, under the heading “**Checklist of conditions for harvesting**”, item 7, replace “outside a 10 m setback from the natural inland wetland” with “within a natural inland wetland”.
- (7) In Schedule 4, form, under the heading “**Checklist of conditions for harvesting**”, item 8, replace “natural wetland” with “natural inland wetland”.
- (8) In Schedule 4, form, under the heading “**Detailed information on particular conditions**”, item 2, replace “natural wetland” with “natural inland wetland”.



Rachel Hayward,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 5 January 2023, amend the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the **principal regulations**).

The amendments to the principal regulations include the following:

- changing the focus of subpart 1 of Part 3 from activities relating to all natural wetlands to natural inland wetlands only, so that coastal wetlands are no longer covered by that subpart:
- *new regulations 45A to 45D* provide for quarrying, landfill and cleanfill areas, urban developments, and the extraction of minerals and ancillary activities:
- amendments that allow for discharging water within, or within a 100 m setback from, a natural inland wetland to be treated differently for some purposes from its taking, use, damming, or diversion:
- making minor and technical amendments.

## Regulatory impact statement

The Ministry for the Environment produced 2 regulatory impact statements on 17 November 2022 to help inform the decisions taken by the Government relating to the contents of this instrument.

Copies of these regulatory impact statements can be found at—

- <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/regulatory-impact-statement-changes-to-wetland-regulations-inland-wetlands/>
- <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/regulatory-impact-statement-changes-to-wetland-regulations-wetlands-in-the-cma/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 8 December 2022.

These regulations are administered by the Ministry for the Environment.