



IRRIGATION
NEW ZEALAND

IrrigationNZ Submission on Managing our Wetlands: A Discussion Document on Proposed Changes to the Wetland Regulations

22nd of October 2021

Ministry for the Environment /Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

Submitted online at: WetlandsTeam@mfe.govt.nz

Please, find below the IrrigationNZ submission to the Ministry for the Environment (MfE) on the discussion document on Managing our Wetlands. We would appreciate the opportunity to discuss the responses in our submission or to provide additional information.

Please, direct any inquiries to:

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About IrrigationNZ

Irrigation New Zealand (IrrigationNZ) is the national representative body endorsed to represent over 3,800 members, including irrigation schemes, individual irrigators, and the irrigation service sector across all regions of New Zealand.

Our irrigator members include a wide range of farmers and growers – sheep and beef, dairy and cropping farmers, horticulturalists, winegrowers, as well as sports and recreational facilities and councils. We also represent over 120 irrigation service industry members – manufacturers, distributors, irrigation design and install companies and irrigation decision support services for both freshwater and effluent irrigation.

We are a voluntary-membership, not-for-profit organisation whose mission is to create an environment for the responsible use of water for food and fibre production for local and international consumers and to sustain the wellbeing of communities.

As an organisation we actively take a technical leadership role in promoting best practice irrigation and carry out a range of training and education activities associated with freshwater management. Over the last five years, we have trained over 3,000 irrigators on different aspects of irrigation best practices to improve water use efficiency (lowering consumption) and better manage environmental effects (improved soil moisture and surface water management). IrrigationNZ members share many of the same goals as other New Zealanders:

- Reduce their environmental footprints and see improvements in the health of the natural environment,
- Contribute to the wellbeing of their communities, and
- Provide for a sustainable future for New Zealand.

General Statements of Principle:

- We strongly support the government's plan to protect and preserve New Zealand's natural wetlands.
- Our understanding is that the wetland regulations will build on existing efforts in preserving wetlands as a lasting part of the NZ landscape, also in conformity with the core objectives of the Essential Freshwater package.
- We agree with the changes to the definition of natural wetlands and stress the need for consistency in that definition across regional councils as they go through natural resource plan review cycles.
- Even though it is not part of the wording revision we want to emphasise our support of exclusion of (a) "a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland')" (MfE 2021, p.6) from the definition. These wetlands will be a huge benefit to the establishment of habitats for various species and are becoming a key feature of many farms. We would not want to see any regulatory barriers to the establishment of these wetlands.
- We note the importance of national consistency to provide clear and pragmatic legislation that recognises the environmental value of a wetland. This also allows the establishment of agreement over wetland management objectives and methodologies including consideration of surrounding land uses.
- We believe it is important to use a process for the management of wetlands on farms that focuses on the same set of freshwater management values and implementation that will appear within an integrated farm management plan.
- Legislation needs to be supported by clear wetland management guidance that reflects a current best practice (see our recent submission on FW-FP). The wetland management guidance should include clarification of roles and responsibilities, accurate and timely information on obligations for farmers, and sound technical advice on technical matters relating to wetland species management.
- Restoration, maintenance, and biosecurity activities in wetlands will need a sensibly regulated process, which needs to be properly informed by appropriate expertise.
- To be consistent with obligations being placed on essential land uses for food growing, the principles of Te Mana o Te Wai should equally be applied to quarrying and mining activities to ensure the protection of natural wetlands. In this regard, we consider that the existing discretionary activity frameworks in local/regional regulations provide sufficient guidance for the effectiveness of wetland management actions and resource consenting.
- We believe that the previously announced draft NES on Highly Productive Land should be advanced to include a wider consideration of the interface between urban, rural, and food production areas particularly to consider and avoid any degradation of wetlands.
- We believe the regulations should be clearer on the matter of setbacks from the margins of an identified natural wetland on land used for non-animal farming or where irrigation is employed.

Section 1 (Overview of Wetland Management) We note that this section covers the purpose of the review and presents a summary of proposals.

Section 2: Change to the definition of a 'natural wetland'

We note that this section discusses changes to the definition of 'natural wetland' and covers questions about the proposed changes in that definition.

Definition of 'natural wetland' (p. 7)

1. Do you agree with the proposed changes to the definition of 'natural wetland'? Why/why not?
2. Should anything else be included or excluded from the definition of 'natural wetland'?

The Government is proposing the following changes to part (c) of this definition:

(c) any area of ~~improved pasture that, at the commencement date, is dominated by (that is more than 50% of)~~ has more than 50 percent ground cover comprising exotic pasture species or exotic species associated with pasture and is subject to temporary rain-derived water pooling.

The revised definition reads:

(c) any area of pasture that has more than 50 percent ground cover comprising exotic pasture species or exotic species associated with pasture.

MfE notes in the discussion document that this amended definition builds on the definition of natural wetlands found in the Resource Management Act 1991 (RMA): to specifically exclude "(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or (b) a geothermal wetland; or (c) any area of improved pasture that, at the commencement date, is dominated by (i.e., more than 50% of exotic pasture species) and is subject to temporary rain derived water pooling."

- We understand that the changes adopted in this discussion document will be adopted into Land and Water Regional Plans, or Natural Resource Plans as these will be the regional frameworks that include the management of wetlands. Any plan changes would therefore conform with national regulations (National policy statement for freshwater management 2020 (NPS-FM); National environmental standards for freshwater 2020 (NES-F); and Resource Management (Stock Exclusion) Regulations 2020) and consistent with the purpose of RMA.
- We agree with the change of the wording of 'improved pasture' to 'pasture'. We also understand the reference to the wording of 'improved pasture' was used in alignment with the Resource Management Stock Exclusion Regulations (2020) as: "an area of land where exotic pasture species have been deliberately sown or maintained for pasture production, and species composition and growth has been modified and is being managed for livestock grazing."
- We agree with the proposed change to the definition of natural wetland that excludes any area of pasture that has more than 50 percent ground cover comprising exotic pasture species or exotic species associated with pasture.
- We agree that the revised definition "will better acknowledge the original intent that wet pasture areas, even if they were once 'natural wetlands', are now highly modified environments and should be able to continue their current use or be able to shift in land use" (MfE, 2021, p.7).
- Even though it is not part of the wording revision we want to emphasise our support of exclusion of (a) "a wetland constructed by artificial means (unless it was

constructed to offset impacts on, or restore, an existing or former 'natural wetland')” (MfE 2021, p.6) from the definition.

- “Under these proposed changes, all other natural wetlands will remain subject to strong regulatory protection.” (MfE, 2021, p.7). IrrigationNZ principles are in alignment with your objective to provide strong regulatory protection to natural wetlands in New Zealand/Aotearoa.
- We further suggest that in alignment with the definition used in the Ramsar Convention, the depth range of the natural wetland is also specified.
- We note that there might be limited ecologist capability and capacity to identify wetlands and/or carry out pasture assessments. Guidance material will therefore be more effective if it includes a comprehensive list of natural wetland flora and fauna species that the proposed definition is covering to allow for consistent identification of the limits of wetlands.
- We assume MfE will work with regional councils and sector bodies to identify the need for and to create a plan for training and/or engaging experts.
- We understand that regional councils have inconsistent levels of resources and funding for the identification and restoration of wetlands. Landowners along with their freshwater farm plan advisors and certifiers should therefore be enabled, incentivised, and trained to undertake an initial land assessment of wetlands on their property. Where wetland delineation is unclear, incentives (such as government funding) would be needed to engage suitable ecologists. Identifying clear roles and responsibilities for the implementation of freshwater management plans will be important to be consistent with the farm plan processes.
- We note that national consistency is important for our farmers and growers that are dealing with issues of freshwater management such as wetlands that may be on or adjoining their properties.
- By integrating wetland management as part of an FW-FP process, it would be possible to achieve efficiency (for framers, regulators, etc.) from a single set of trusted relationships (i.e., farm plan author, certifier, and auditor) that farmers can rely on over a standard period.

Section 3: Better provision for restoration, maintenance, and biosecurity activities in 'natural wetlands'

We agree with the intent expressed in the discussion document about further refinements to the provisions in NPS-FM also to address biosecurity and maintenance activities.

Better provision for restoration, maintenance, and biosecurity activities (p. 9)

3. Should maintenance be included in the regulations alongside restoration? Why/why not?

- We agree that regulations should contemplate both wetland maintenance and restoration activities. This could include a schedule of values and objectives that lead to agreed maintenance actions. We think the wetland legislation should be integrated with FW-FP regulations and not be a separate or disconnected process. The regulatory process needs to be properly informed by appropriate expertise.
- For the avoidance of uncertainty, maintenance activities should be included in the wetland regulations in conformity with condition (a) under subclause 4. This condition specifies that 'the activity must comply with the general conditions on natural wetland activities in [regulation 55](#)'. Therefore, there needs to be clear guidance about what are acceptable maintenance activities.

- As per NES-F, we understand that certain interventions that affect a natural wetland are controlled activities that require resource consenting. Such activities could mean the maintenance of flow paths, planting, and utility structures. Before maintenance can be performed by landowners, we believe specialist guidance will be needed. However, most of these activities can be anticipated and therefore should be part of an FW-FP process, which reduces the requirement to involve regional councils. At this stage, there is not sufficient clarity about this, and guidance will be required.
 - In some regions, information support could be sought from regional councils or ecology expertise to support landowners in their restoration plans and in assessing whether maintenance is necessary.
 - We assume that MfE in conjunction with other authorities would work on enhancing expertise and guidance for restoring and maintaining wetlands.
4. Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?
- We suggest that MfE continues to engage Subject Matter Experts (SMEs) (comprising hydrologists, engineers, biologists, primary industry representatives, resource managers, policymakers) to advise on refining regulations in general and specifically in developing guidance relating to the removal of exotic species.
5. Should activities be allowed that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?
- As above, we would suggest seeking SME recommendations for determining permitted activities for biosecurity purposes.
6. Should restoration and maintenance of 'natural wetland' be made a permitted activity, if it is undertaken following a council-approved wetland management strategy? Why/why not?
- There is an opportunity to consider making certain restoration and maintenance activities permitted activities. However, we think the best way to ensure consistency in setting the boundaries of those activities (to prevent undesirable outcomes), is to integrate this with the FW-FP process and provide better guidance material and training.
7. Should weed clearance using hand-held tools be permitted activity? Why/why not?
- As per the answer to question 6, we think the best way to ensure consistency in setting the boundaries of those activities (to prevent undesirable outcomes) is to integrate this with the FW-FP process.

Section 4: Additional consenting pathways

Consenting pathway for quarrying (p. 12)

8. Should a consenting pathway be provided for quarries? Is discretionary the right activity status? Why/why not?
- In our understanding, large scale quarrying activities can contribute to the disappearance of certain wetlands, often through the production of sediments therefore, quarrying activities that potentially impact the environment should be restricted following existing regulations.

- However, small-scale quarrying can be associated with farming activities where the local on-farm production of gravel and limestone for farm maintenance purposes is a critical element of safe and healthy animal movement and standing areas.
 - Therefore, on a scale proportionate basis, quarrying needs to go through a robust consenting pathway and generally should be regulated under a discretionary activity status for large commercial extraction operations.
 - We understand that discretionary activities must comply with conditions of NES-F and any additional conditions imposed by relevant councils.
 - Farm quarrying activities that potentially impact water bodies will be most appropriately controlled under the FW-FP process with agreed values/risk assessment and certified management plans.
 - Restrictions should be specific enough for regional councils to be able to weigh options and make effective land-use decisions.
9. Should resource consents for quarrying be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?
- To be consistent with obligations being placed on other land uses, such as food growing, the principles of Te Mana o Te Wai should be applied to quarrying activities to help prioritise the protection of natural wetlands.
 - No additional conditions should be considered. We believe that applications for resource consent for quarrying must demonstrate to councils how each step of the 'effects management hierarchy' (set out in the NPS-FM) will be applied before the consent can be granted" (MfE 2021, p.11).
 - We consider that existing legal frameworks and local/regional regulations and rules can provide sufficient guidance for the effectiveness of management actions, including resource consenting.

Consenting pathway for landfills, cleanfills, and managed fills (p. 13)

10. Should a consenting pathway be created for landfills, cleanfills, and managed fills? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)
- In our understanding, landfills, cleanfills, and managed fills can contribute to the disappearance of certain wetlands; therefore, these activities that potentially impact the environment should be restricted following existing regulations.
 - Landfills, cleanfills, and managed fills need to go through a rigorous consenting pathway and should be under a discretionary activity status.
 - Restrictions should be specific enough for regional councils to be able to weigh options and make effective land-use decisions.
 - These activities may be determined by additional conditions to comply with the Waste Minimisation Act 2008, and Regional Land and Water Plans.
11. Should resource consents for landfills, cleanfills, and managed fills be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?
- To be consistent with obligations being placed on other land uses, such as food growing, the principles of Te Mana o Te Wai should be applied to landfill activities to help prioritise the protection of natural wetlands.
 - No additional conditions should be considered. We believe that applications for resource consent for the mentioned types of fills must demonstrate to councils how each step of the 'effects management hierarchy' (set out in the NPS-FM) will be applied before the consent can be granted" (MfE 2021, p.11).

- We consider that existing legal frameworks and local/regional regulations and rules can provide sufficient guidance for the effectiveness of management actions, including resource consenting.

Consenting pathway for mining (minerals) (p. 13)

12. Should a consenting pathway be provided for mineral mining? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)

- Scientific research² suggests that mining can severely affect wetlands. While we understand that mined minerals may contribute to the economy, mining should be included as a discretionary activity. Any assessment shall ensure that necessary steps are taken to minimise any damage to wetlands.
- Mining needs to go through a consenting pathway and should be under a discretionary activity status.
- We understand that discretionary activities must comply with conditions of NES-F and any additional conditions imposed by regional councils.
- Mining can contribute to the disappearance of wetlands³; therefore, mining activities should be restricted following existing regulations.

13. Should the regulations specify which minerals can be mined subject to resource consent? Why/why not?

- Restrictions should be specific enough for regional councils to be able to weigh options and make effective land-use decisions.

14. Should resource consents for mining be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?

- To be consistent with obligations being placed on other land uses, such as food growing, the principles of Te Mana o Te Wai should be applied to mining activities to help prioritise the protection of natural wetlands. No additional conditions should be considered. We believe that applications for resource consent for mining must demonstrate to councils how each step of the 'effects management hierarchy' (set out in the NPS-FM) will be applied before the consent can be granted" (MfE 2021, p.11).
- We consider that the existing legal framework and local/regional regulations and rules can provide sufficient guidance for the effectiveness of management actions, including resource consenting.

Consenting pathway for plan-enabled development (p. 14)

15. Should a consenting pathway be provided for plan-enabled urban development? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)

- These activities will require the council's decision to grant consent on a case-by-case basis. We assume that the necessary assessment (including identification of the wetland value) will be done to ensure any potential damage to wetlands is minimised or avoided.

16. Should resource consents for urban development listed in a district plan be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?

- We believe that the previously announced draft NES on Highly Productive Land should be advanced to include a wider consideration of the interface between

urban, rural, and food production areas particularly to avoid any degradation of wetlands.

17. Is the current offsetting requirement appropriate for all types of urban infrastructure, for example, public amenities such as schools and medical centres? Why/why not?

- We suggest that MfE continues to engage SMEs (comprising hydrologists, engineers, biologists, primary industry representatives, resource managers, policymakers) to advise on the matter of refining regulations relating to the encroachment of urban infrastructure on rural areas, inclusive of wetlands.

Additional Notes:

- We note that setbacks defined in proposed stock exclusion regulations do not help in respect to clarifying the relationship to setbacks within horticulture and arable enterprises or other land use activities that do not include animals. We also note that currently, NES-F covers activities relating to horticulture and arable land use concerning a 10 m setback from a natural wetland or explains the 100m setback for restoration and maintenance, without providing any explanation about the setback for irrigation purposes⁴.
- We believe the regulations should be clearer on the matter of setbacks from the margins of an identified natural wetland. Specifically, if a farmer or grower has identified a natural wetland on their land according to the revised definition, it needs to be clear in the regulations if there are expectations on how far back from this demarcation they are allowed to farm or irrigate.

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