



Resource Management (National Environmental Standards for Freshwater) Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 3rd day of August 2020

Present:

The Right Hon Jacinda Ardern presiding 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.

Contents

	Page
1 Title	5
2 Commencement	5

Part 1

Preliminary provisions

3 Interpretation	5
4 Transitional, savings, and related provisions	11
5 Regulations deal with functions of regional councils	11
6 Relationship between regulations and plan rules and resource consents	11
7 Regulations are subject to Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017	11

Part 2		
Standards for farming activities		
8	This Part applies to farms of certain size	11
	Subpart 1—Feedlots and other stockholding areas	
	<i>Feedlots</i>	
9	Permitted activities	12
10	Discretionary activities	12
11	Non-complying activities	13
	<i>Stockholding areas other than feedlots</i>	
12	Permitted activities: stockholding areas for small and young cattle	13
13	Permitted activities: stockholding areas for larger and older cattle	13
14	Discretionary activities: stockholding areas for larger and older cattle	14
	Subpart 2—Agricultural intensification: temporary standards	
15	Application of this subpart	15
	<i>Conversions of plantation forestry to pastoral land use</i>	
16	Permitted activities	15
17	Discretionary activities	16
	<i>Conversions of land on farm to dairy farm land</i>	
18	Permitted activities	16
19	Discretionary activities	16
	<i>Irrigation of dairy farm land</i>	
20	Permitted activities	17
21	Discretionary activities	17
	<i>Use of land as dairy support land</i>	
22	Permitted activities	18
23	Discretionary activities	18
	<i>Resource consents for discretionary activities</i>	
24	Discretionary activities: conditions on granting resource consents	18
	<i>Revocation</i>	
25	Revocation of this subpart	19
	Subpart 3—Intensive winter grazing	
26	Permitted activities	19
27	Restricted discretionary activities	20
	<i>Intensification: temporary standards</i>	
28	When regulations 29 and 30 do not apply	21
29	Permitted activities and restricted discretionary activities: temporary further conditions	21

30	Discretionary activities	22
31	Revocations	22
	Subpart 4—Application of synthetic nitrogen fertiliser to pastoral land	
32	Interpretation of this subpart	22
33	Permitted activity	23
34	Non-complying activity	23
35	Compliance with regional rules	25
36	Operating dairy farm: monitoring and information required	25
Part 3		
Standards for other activities that relate to freshwater		
Subpart 1—Natural wetlands		
37	When this subpart does not apply	26
	<i>Restoration of natural wetlands</i>	
38	Permitted activities	26
39	Restricted discretionary activities	27
	<i>Scientific research</i>	
40	Permitted activities	27
41	Restricted discretionary activities	28
	<i>Construction of wetland utility structures</i>	
42	Restricted discretionary activities	29
	<i>Maintenance of wetland utility structures</i>	
43	Permitted activities	30
44	Restricted discretionary activities	31
	<i>Construction of specified infrastructure</i>	
45	Discretionary activities	32
	<i>Maintenance and operation of specified infrastructure and other infrastructure</i>	
46	Permitted activities	32
47	Restricted discretionary activities	33
	<i>Sphagnum moss harvesting</i>	
48	Permitted activity: existing sphagnum moss harvests	34
49	Discretionary activity: new sphagnum moss harvests	35
	<i>Arable and horticultural land use</i>	
50	Permitted activities	35
	<i>Natural hazard works</i>	
51	Permitted activities	36

	<i>Drainage of natural wetlands</i>	
52	Non-complying activities	37
53	Prohibited activities	37
	<i>Other activities</i>	
54	Non-complying activities	37
	<i>General matters</i>	
55	General conditions on natural wetland activities	38
56	Restricted discretionary activities: matters to which discretion is restricted	42
	Subpart 2—Reclamation of rivers	
57	Discretionary activities	42
	Subpart 3—Passage of fish affected by structures	
	<i>How this subpart applies</i>	
58	Purpose of this subpart	42
59	When multiple provisions of this subpart apply	43
60	When this subpart does not apply	43
	<i>Information requirements</i>	
61	Purpose of information requirements	43
62	Requirement for all activities: information about structures and passage of fish	43
63	Requirement for culvert activities: information about culverts	44
64	Requirement for weir activities: information about weirs	45
65	Requirement for flap gate activities: information about flap gates	46
66	Requirement for dam activities: information about dams	47
67	Requirement for ford activities: information about fords	48
68	Requirement for certain structure activities: information about aprons and ramps	49
	<i>Monitoring and maintenance requirements</i>	
69	Condition of resource consent for activities: monitoring and maintenance	49
	<i>Culverts</i>	
70	Permitted activities	50
71	Discretionary activities	51
	<i>Weirs</i>	
72	Permitted activities	51
73	Discretionary activities	52
	<i>Passive flap gates</i>	
74	Non-complying activities	52

Part 4		
Local authorities may charge for monitoring permitted activities		
75	Local authorities may charge for monitoring permitted activities	52
Schedule 1		
Transitional, savings, and related provisions		
Schedule 2		
Restoration plans for natural wetlands		
Schedule 3		
Sphagnum moss harvesting plans		
Schedule 4		
Form for assessing natural wetlands after harvest of sphagnum moss		

Regulations

1 Title

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

2 Commencement

- (1) These regulations come into force on 3 September 2020.
- (2) However,—
 - (a) subpart 3 of Part 2 (intensive winter grazing) comes into force on 1 May 2021;
 - (b) regulations 12 to 14 (stockholding areas other than feedlots) and subpart 4 of Part 2 (application of synthetic nitrogen fertiliser to pastoral land) come into force on 1 July 2021.

Part 1

Preliminary provisions

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Resource Management Act 1991

annual forage crop means a crop, other than pasture, that is grazed in the place where it is grown

apron means a hard (generally concrete) surface layer constructed at the entrance or outlet of a structure to protect the structure from erosion

arable land use has the meaning given by section 217B of the Act

bed substrate means the material that makes up the bed of any river or connected area (for example, sand, silt, gravel, cobbles, boulders, or bedrock)

certified freshwater farm plan has the meaning given by section 217B of the Act

certifier has the meaning given by section 217B of the Act

culvert means a pipe, box structure, or covered or arched channel that has an inlet and outlet that is in, and that connects the water or bed of, the same river or connected area

dairy cattle—

- (a) means cattle farmed for producing milk; and
- (b) includes—
 - (i) any bull on the farm whose purpose is mating with those cattle; and
 - (ii) unweaned calves of those cattle; but
- (c) does not include dairy support cattle

dairy farm land means land on a farm that is used for grazing dairy cattle

dairy support cattle means cattle that—

- (a) are farmed for producing milk, but are not being milked (for example, because they are heifers or have been dried off); and
- (b) are grazed on land that is not grazed by dairy cattle

dairy support land means land on a farm that is used for grazing dairy support cattle

dam, in subpart 3 of Part 3 (passage of fish affected by structures), means a structure—

- (a) whose purpose is to impound water behind a wall across the full width of any river or connected area; and
- (b) that is not a weir

distribution network—

- (a) means lines and associated equipment that are used for conveying electricity and are operated by a business engaged in the distribution of electricity; but
- (b) does not include lines and associated equipment that are part of the national grid

drain has the meaning given by the National Planning Standards 2019

earthworks has the meaning given by the National Planning Standards 2019

ecosystem health has the meaning given by the National Policy Statement for Freshwater Management

farm means a landholding whose activities include agriculture

feedlot means a stockholding area where cattle—

- (a) are kept for at least 80 days in any 6-month period; and
- (b) are fed exclusively by hand or machine

flap gate means a hinged gate that controls fluctuations in tidal or flood water, such as a tide gate or flood gate

ford means a structure that—

- (a) is artificial, shallow, and designed for crossing any river or connected area; and
- (b) is in contact with most of the width of the bed of the river or connected area

harvest operator, in relation to a harvest of sphagnum moss, means the person who is responsible for the organisation and operation of the harvest

horticultural land use has the meaning given by section 217B of the Act

hydro-electricity infrastructure means infrastructure for generating hydro-electricity that is to be transmitted through the national grid or a distribution network

hydrological regime means the characteristic changes in hydrological variables over time, including changes to water levels, water flows, and discharges of water

improved pasture has the meaning given by the National Policy Statement for Freshwater Management

intensive winter grazing means grazing livestock on an annual forage crop at any time in the period that begins on 1 May and ends with the close of 30 September of the same year

irrigation means the activity of applying water to land by means of a constructed system for the purpose of assisting production of vegetation or stock on that land

land disturbance has the meaning given by the National Planning Standards 2019

landholding means 1 or more parcels of land (whether or not they are contiguous) that are managed as a single operation

Māori freshwater values has the meaning given by the National Policy Statement for Freshwater Management

national grid has the meaning given by regulation 3(1) of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

National Planning Standards 2019 means the National Planning Standards whose approval under section 58E of the Act was notified on 5 April 2019 (as amended or replaced from time to time)

National Policy Statement for Freshwater Management means the National Policy Statement for Freshwater Management whose approval under section 52 of the Act was notified in August 2020 (as amended or replaced from time to time)

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

non-passive flap gate means a flap gate whose opening and closing is controlled by an automated and powered system (for example, electric or hydraulic) when the water reaches certain levels

other infrastructure means infrastructure, other than specified infrastructure, that was lawfully established before, and in place at, the close of 2 September 2020

passive flap gate means a flap gate whose opening or closing—

- (a) is caused by a positive head differential on the upstream or downstream side, respectively; and
- (b) is not controlled by an automated and powered system (for example, electric or hydraulic) when the water reaches certain levels

pastoral land use has the meaning given by section 217B of the Act

pest has the meaning given by section 2(1) of the Biosecurity Act 1993

plantation forestry has the meaning given by regulation 3(1) of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

pugging means the penetration of soil by hooves of grazing livestock

reclamation has the meaning given by the National Planning Standards 2019

reference period means the period that started on 1 July 2014 and ended with the close of 30 June 2019

restoration has the meaning given by the National Policy Statement for Freshwater Management

river or connected area means—

- (a) a river; or
- (b) any part of the coastal marine area that is upstream from the mouth of a river

sacrifice paddock means an area on which—

- (a) cattle are repeatedly, but temporarily, contained (typically during extended periods of wet weather); and

- (b) the resulting damage caused to the soil by pugging is so severe as to require resowing with pasture species

sediment control measures means measures or structures that do 1 or more of the following:

- (a) stop sediment from being washed away from its source:
- (b) slow or stop water with sediment in it so that the sediment drops out of suspension before the water reaches a water body:
- (c) divert the flow of water so that it does not become contaminated with sediment

setback, in relation to an activity in the vicinity of a natural wetland, means the distance measured horizontally from the boundary of the natural wetland that creates a buffer within which the activity cannot take place except in accordance with these regulations

shelter belt has the meaning given by regulation 3(1) of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

specified infrastructure has the meaning given by the National Policy Statement for Freshwater Management

stockholding area—

- (a) means an area for holding cattle at a density that means pasture or other vegetative ground cover cannot be maintained (for example, feed pads, winter pads, standoff pads, and loafing pads); but
- (b) does not include an area used for pastoral purposes that is in the nature of a stockyard, milking shed, wintering barn, or sacrifice paddock

unwanted organism has the meaning given by section 2(1) of the Biosecurity Act 1993

values, in relation to a natural wetland, means the ability of the wetland to provide for any of the following:

- (a) ecosystem health:
- (b) Māori freshwater values:
- (c) hydrological functioning:
- (d) indigenous biodiversity:
- (e) amenity

vegetation clearance—

- (a) means the disturbance, damage, destruction, or removal of vegetation by any means (for example, by cutting, crushing, application of chemicals, or burning); and

- (b) includes activities that result in the disturbance, damage, destruction, or removal of vegetation (for example, over-planting, applying the seed of exotic pasture species, mob-stocking, or draining away water); but
- (c) does not include—
 - (i) the removal of sphagnum moss for the purpose of a harvest in accordance with regulation 48 or 49; or
 - (ii) the crushing of other vegetation for the purpose of maintaining the dominance of sphagnum moss, if the crushing is carried out during a harvest of sphagnum moss or to rehabilitate the moss after it is harvested; or
 - (iii) an activity described in paragraph (a) or (b) that is for the maintenance or construction of fencing for the purpose of excluding stock or marking property boundaries; or
 - (iv) an activity described in paragraph (a) or (b) that is for the maintenance of shelter belts; or
 - (v) the grazing of improved pasture within the relevant setback from a natural wetland

weir means an open-topped structure across the full width of any river or connected area that—

- (a) alters the water level and the flow characteristics of the water; and
- (b) allows water to flow passively through or over the top

wetland utility structure—

- (a) means a structure placed in or adjacent to a wetland whose purpose, in relation to the wetland, is recreation, education, conservation, restoration, or monitoring; and
- (b) for example, includes the following structures that are placed in or adjacent to a wetland for a purpose described in paragraph (a):
 - (i) jetties:
 - (ii) boardwalks and bridges connecting them:
 - (iii) walking tracks and bridges connecting them:
 - (iv) signs:
 - (v) bird-watching hides:
 - (vi) monitoring devices:
 - (vii) maimai

wetted margin, for a structure in any river or connected area, means an area that—

- (a) has shallow water that flows at low velocity; and
- (b) is at the edges of the water flow; and

- (c) is continuous over the length of the structure; and
- (d) is suitable for the passage of climbing species of fish.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

5 Regulations deal with functions of regional councils

These regulations—

- (a) deal with the functions of regional councils under section 30 of the Act;
- (b) do not deal with the functions of territorial authorities under section 31 of the Act.

6 Relationship between regulations and plan rules and resource consents

- (1) A district rule, regional rule, or resource consent may be more stringent than these regulations.
- (2) A district rule, regional rule, or resource consent may be more lenient than any of regulations 70 to 74 (culverts, weirs, and passive flap gates) if the rule is made, or the resource consent is granted, for the purpose of preventing the passage of fish in order to protect particular fish species, their life stages, or their habitats.

7 Regulations are subject to Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

These regulations are subject to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.

Part 2

Standards for farming activities

8 This Part applies to farms of certain size

- (1) This Part applies only to farms on which—
 - (a) 20 ha or more is in arable land use; or
 - (b) 5 ha or more is in horticultural land use; or
 - (c) 20 ha or more is in pastoral land use; or
 - (d) 20 ha or more is in a combination of any 2 or more of the land uses described above.
- (2) However, subclause (1) does not limit the application of regulations 16 to 19 (conversions of plantation forestry to pastoral land use and conversions of land on farm to dairy farm land).

Subpart 1—Feedlots and other stockholding areas

*Feedlots***9 Permitted activities**

- (1) The use of land on a farm for holding cattle in a feedlot is a permitted activity if it complies with the condition.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the condition:
 - (a) the discharge is associated with the use of land on a farm for holding cattle in a feedlot; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Condition

- (3) The condition is that 90% or more of the cattle held in the feedlot must—
 - (a) be no more than 4 months old; or
 - (b) weigh no more than 120 kg.

10 Discretionary activities

- (1) The use of land on a farm for holding cattle in a feedlot is a discretionary activity if it—
 - (a) does not comply with the condition in regulation 9(3); but
 - (b) complies with the conditions in subclause (3) of this regulation.
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with the condition in regulation 9(3) but complies with the conditions in subclause (3) of this regulation:
 - (a) the discharge is associated with the use of land on a farm for holding cattle in a feedlot; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Conditions

- (3) The conditions are that—
 - (a) the base area of the feedlot must be sealed to a minimum permeability standard of 10^{-9} m/s; and
 - (b) effluent expelled in the feedlot must be collected, stored, and disposed of in accordance with a rule in a regional or district plan, or a resource consent; and

- (c) the feedlot must be at least 50 m away from any water body, any water abstraction bore, any drain, and the coastal marine area.

11 Non-complying activities

- (1) The use of land on a farm for holding cattle in a feedlot is a non-complying activity if it does not comply with—
 - (a) the condition in regulation 9(3); and
 - (b) any condition in regulation 10(3).
- (2) The following discharge of a contaminant is a non-complying activity if it does not comply with the condition in regulation 9(3) and any condition in regulation 10(3):
 - (a) the discharge is associated with the use of land on a farm for holding cattle in a feedlot; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Stockholding areas other than feedlots

12 Permitted activities: stockholding areas for small and young cattle

- (1) The use of land on a farm for holding cattle in a stockholding area (other than a feedlot) is a permitted activity if it complies with the condition.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the condition:
 - (a) the discharge is associated with the use of land on a farm for holding cattle in a stockholding area (other than a feedlot); and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Condition

- (3) The condition is that 90% or more of the cattle held in the stockholding area must—
 - (a) be no more than 4 months old; or
 - (b) weigh no more than 120 kg.

13 Permitted activities: stockholding areas for larger and older cattle

- (1) The use of land on a farm for holding cattle in a stockholding area (other than a feedlot) is a permitted activity if it—
 - (a) does not comply with the condition in regulation 12(3); but
 - (b) complies with the applicable condition or conditions in subclause (3) or (4) of this regulation.

- (2) The following discharge of a contaminant is a permitted activity if it does not comply with the condition in regulation 12(3) but complies with the applicable condition or conditions in subclause (3) or (4) of this regulation:
- (a) the discharge is associated with the use of land on a farm for holding cattle in a stockholding area (other than a feedlot); and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Conditions

- (3) The condition is that the holding of cattle in the stockholding area must be undertaken in accordance with the farm's certified freshwater farm plan if—
- (a) the farm has a certified freshwater farm plan that applies to the holding of cattle in the stockholding area; and
 - (b) a certifier has certified that the adverse effects (if any) allowed for by the plan in relation to the holding of cattle in the stockholding area are no greater than those allowed for by the conditions in subclause (4).
- (4) In any other case, the conditions are that—
- (a) the base area of the stockholding area must be sealed to a minimum permeability standard of 10^{-9} m/s; and
 - (b) effluent expelled in the stockholding area must be collected, stored, and disposed of in accordance with a rule in a regional or district plan, or a resource consent; and
 - (c) the stockholding area must be at least 50 m away from any water body, any water abstraction bore, any drain, and the coastal marine area.

Enforcement officer may require information

- (5) A person undertaking a permitted activity under this regulation must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with any of the conditions in subclause (4)(a) to (c).

14 Discretionary activities: stockholding areas for larger and older cattle

- (1) The use of land on a farm for holding cattle in a stockholding area (other than a feedlot) is a discretionary activity if it does not comply with—
- (a) the condition in regulation 12(3); and
 - (b) the applicable condition, or any of the applicable conditions, in regulation 13(3) or (4).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with the condition in regulation 12(3) and the applicable condition, or any of the applicable conditions, in regulation 13(3) or (4):

- (a) the discharge is associated with the use of land on a farm for holding cattle in a stockholding area (other than a feedlot); and
- (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Subpart 2—Agricultural intensification: temporary standards

15 Application of this subpart

- (1) Except as provided in subclause (2), this subpart applies to—
 - (a) farms; and
 - (b) for the purposes of regulations 16 and 17, other landholdings in which land used for plantation forestry is being converted to pastoral land use.
- (2) This subpart does not apply to a farm or other landholding if the relevant regional council has given public notice under section 55(2A) of the Act in relation to the National Policy Statement for Freshwater Management.

Conversions of plantation forestry to pastoral land use

16 Permitted activities

- (1) The conversion of land used for plantation forestry to pastoral land use is a permitted activity if it complies with the applicable condition.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the applicable condition:
 - (a) the discharge is associated with the conversion of land used for plantation forestry to pastoral land use; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Condition

- (3) If the land is part of a farm that included pastoral land use at the close of 2 September 2020, the condition is that, at all times, the area of the farm that is in pastoral land use must be no greater than—
 - (a) the area that was in pastoral land use at the close of 2 September 2020; plus
 - (b) 10 ha.
- (4) In any other case, the condition is that, at all times, the area of the farm that is in pastoral land use must be no greater than 10 ha.

17 Discretionary activities

- (1) The conversion of land used for plantation forestry to pastoral land use is a discretionary activity if it does not comply with the applicable condition in regulation 16(3) or (4).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with the applicable condition in regulation 16(3) or (4):
 - (a) the discharge is associated with the conversion of land used for plantation forestry to pastoral land use; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.
- (3) *See* regulation 24 (discretionary activities: conditions on granting resource consents).

*Conversions of land on farm to dairy farm land***18 Permitted activities**

- (1) The conversion of land on a farm to dairy farm land is a permitted activity if it complies with the applicable condition.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the applicable condition:
 - (a) the discharge is associated with the conversion of land on a farm to dairy farm land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Condition

- (3) If the farm included dairy farm land at the close of 2 September 2020, the condition is that, at all times, the area of the farm that is dairy farm land must be no greater than—
 - (a) the area of dairy farm land at the close of 2 September 2020; plus
 - (b) 10 ha.
- (4) In any other case, the condition is that, at all times, the area of the farm that is dairy farm land must be no greater than 10 ha.

19 Discretionary activities

- (1) The conversion of land on a farm to dairy farm land is a discretionary activity if it does not comply with the applicable condition in regulation 18(3) or (4).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with the applicable condition in regulation 18(3) or (4):

- (a) the discharge is associated with the conversion of land on a farm to dairy farm land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.
- (3) See regulation 24 (discretionary activities: conditions on granting resource consents).

Irrigation of dairy farm land

20 Permitted activities

- (1) The irrigation of a farm's dairy farm land is a permitted activity if it complies with the applicable condition.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the applicable condition:
 - (a) the discharge is associated with the irrigation of a farm's dairy farm land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Condition

- (3) If the farm included dairy farm land that was irrigated at any time in the 12 months before the close of 2 September 2020, the condition is that, at all times, the area of the farm's dairy farm land that is irrigated must be no greater than—
 - (a) the maximum area of the farm's dairy farm land that was irrigated in that 12-month period; plus
 - (b) 10 ha.
- (4) In any other case, the condition is that, at all times, the area of the farm's dairy farm land that is irrigated must be no greater than 10 ha.

21 Discretionary activities

- (1) The irrigation of a farm's dairy farm land is a discretionary activity if it does not comply with the applicable condition in regulation 20(3) or (4).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with the applicable condition in regulation 20(3) or (4):
 - (a) the discharge is associated with the irrigation of a farm's dairy farm land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

- (3) See regulation 24 (discretionary activities: conditions on granting resource consents).

Use of land as dairy support land

22 Permitted activities

- (1) The use of land on a farm as dairy support land is a permitted activity if it complies with the conditions.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the conditions:
- (a) the discharge is associated with the use of land on a farm as dairy support land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Conditions

- (3) The conditions are that—
- (a) land on the farm must have been used as dairy support land in the reference period; and
 - (b) at all times, the area of the farm that is used as dairy support land must be no greater than the maximum area of the farm that was used as dairy support land in the reference period.

23 Discretionary activities

- (1) The use of land on a farm as dairy support land is a discretionary activity if it does not comply with either of the conditions in regulation 22(3).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with either of the conditions in regulation 22(3):
- (a) the discharge is associated with the use of land on a farm as dairy support land; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.
- (3) See regulation 24 (discretionary activities: conditions on granting resource consents).

Resource consents for discretionary activities

24 Discretionary activities: conditions on granting resource consents

- (1) A resource consent for an activity that is a discretionary activity under this subpart may be granted only if the consent authority is satisfied that granting the consent will not result in an increase in—

- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020; or
- (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.

Term of resource consent

- (2) A resource consent granted for the discretionary activity must be for a term that ends before 1 January 2031.

Revocation

25 Revocation of this subpart

This subpart is revoked on 1 January 2025.

Subpart 3—Intensive winter grazing

26 Permitted activities

- (1) The use of land on a farm for intensive winter grazing is a permitted activity if it complies with the applicable condition or conditions.
- (2) The following discharge of a contaminant is a permitted activity if it complies with the applicable condition or conditions:
 - (a) the discharge is associated with the use of land on a farm for intensive winter grazing; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Conditions

- (3) The condition is that the intensive winter grazing must be undertaken in accordance with the farm's certified freshwater farm plan if—
 - (a) the farm has a certified freshwater farm plan that applies to the intensive winter grazing; and
 - (b) a certifier has certified that the adverse effects (if any) allowed for by the plan in relation to the intensive winter grazing are no greater than those allowed for by the conditions in subclause (4).
- (4) In any other case, the conditions are that,—
 - (a) at all times, the area of the farm that is used for intensive winter grazing must be no greater than 50 ha or 10% of the area of the farm, whichever is greater; and
 - (b) the mean slope of a paddock that is used for intensive winter grazing must be 10 degrees or less; and
 - (c) on a paddock that is used for intensive winter grazing,—

- (i) pugging at any one point must not be deeper than 20 cm; and
 - (ii) pugging of any depth must not cover more than 50% of the paddock; and
 - (d) livestock must be kept at least 5 m away from the bed of any river, lake, wetland, or drain (regardless of whether there is any water in it at the time); and
 - (e) the land that is used for intensive winter grazing must be replanted as soon as practicable after livestock have grazed the land's annual forage crop (but no later than 1 October of the same year).
- (5) But *see* regulation 29 (permitted activities and restricted discretionary activities: temporary further conditions).

Enforcement officer may require information

- (6) A person undertaking a permitted activity under this regulation must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with the condition in subclause (4)(a), (d), or (e).

Temporary extension for replanting on farms in Otago and Southland

- (7) If the farm is in the region of the Otago Regional Council or the Southland Regional Council, the latest date by which the land must be replanted under subclause (4)(e) is 1 November of the same year (rather than 1 October).
- (8) This subclause, subclause (7), and the heading above subclause (7) are revoked on 1 May 2024.

27 Restricted discretionary activities

- (1) The use of land on a farm for intensive winter grazing is a restricted discretionary activity if the use does not comply with the applicable condition, or any of the applicable conditions, in regulation 26(3) or (4).
- (2) The following discharge of a contaminant is a restricted discretionary activity if it does not comply with the applicable condition, or any of the applicable conditions, in regulation 26(3) or (4):
- (a) the discharge is associated with the use of land on a farm for intensive winter grazing; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.
- (3) But *see* regulation 29 (permitted activities and restricted discretionary activities: temporary further conditions).

Matters to which discretion is restricted

- (4) The discretion of a consent authority is restricted to the following matters:

- (a) the adverse effects of the activity on ecosystems, freshwater, and water bodies:
- (b) the adverse effects of the activity on the water that affect the ability of people to come into contact with the water safely:
- (c) the adverse effects of the activity on Māori cultural values:
- (d) the susceptibility of the land to erosion, and the extent to which the activity may exacerbate or accelerate losses of sediment and other contaminants to water:
- (e) the timing and appropriateness of the methods (if any) proposed to avoid, remedy, or mitigate the loss of contaminants to water.

Intensification: temporary standards

28 When regulations 29 and 30 do not apply

Regulations 29 and 30 do not apply if the relevant regional council has given public notice under section 55(2A) of the Act in relation to the National Policy Statement for Freshwater Management.

29 Permitted activities and restricted discretionary activities: temporary further conditions

- (1) To be a permitted activity, an activity described in regulation 26(1) or (2) must also comply with the conditions in subclause (3) of this regulation (in addition to the applicable condition, or applicable conditions, in regulation 26(3) or (4)).
- (2) To be a restricted discretionary activity, an activity described in regulation 27(1) or (2) must comply with the conditions in subclause (3) of this regulation.

Further conditions

- (3) The conditions are that—
 - (a) land on the farm must have been used for intensive winter grazing in the reference period; and
 - (b) at all times, the area of the farm that is used for intensive winter grazing must be no greater than the maximum area of the farm that was used for intensive winter grazing in the reference period.
- (4) To avoid doubt, the activity must comply with the conditions in subclause (3) of this regulation even if the maximum area used in the reference period was less than the applicable area under regulation 26(4)(a).

Enforcement officer may require information

- (5) A person undertaking a permitted activity under regulation 26 must provide any information reasonably required by a regional council enforcement officer for the purpose of monitoring compliance with the conditions in subclause (3) of this regulation.

30 Discretionary activities

- (1) The use of land on a farm for intensive winter grazing is a discretionary activity if it does not comply with either of the conditions in regulation 29(3).
- (2) The following discharge of a contaminant is a discretionary activity if it does not comply with either of the conditions in regulation 29(3):
 - (a) the discharge is associated with the use of land on a farm for intensive winter grazing; and
 - (b) the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.

Conditions on granting resource consent

- (3) A resource consent for the discretionary activity may be granted only if the consent authority is satisfied that granting the consent will not result in an increase in—
 - (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020; or
 - (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.

Term of resource consent

- (4) A resource consent granted for the discretionary activity must be for a term that ends before 1 January 2031.

31 Revocations

The following are revoked on 1 January 2025:

- (a) regulation 26(5);
- (b) regulation 27(3);
- (c) the cross-heading above regulation 28;
- (d) regulations 28 to 30;
- (e) this regulation.

Subpart 4—Application of synthetic nitrogen fertiliser to pastoral land

32 Interpretation of this subpart

In this subpart,—

contiguous landholding means each area of 1 or more contiguous parcels of land within a farm

Example

A farm is managed as a single operation on 50 ha of land, comprising 2 parts: 20 ha of contiguous parcels and a separate 30 ha of contiguous parcels. Each of those parts is a contiguous landholding.

nitrogen cap, for the land in pastoral land use in a contiguous landholding, means the application of nitrogen at a rate of no more than 190 kg/ha/year—

- (a) to all of that land, as averaged over that land; and
- (b) to each hectare of that land that is not used to grow annual forage crops

pastoral land use does not include the use of land for the grazing of livestock on the stubble of a crop that has been harvested after arable land use

synthetic nitrogen fertiliser—

- (a) means any substance (whether solid or liquid) that—
 - (i) is more than 5% nitrogen by weight; and
 - (ii) is applied to any plant or soil as a source of nitrogen nutrition for plants; and
- (b) includes any manufactured urea, diammonium phosphate, or sulphate of ammonia to which paragraph (a) applies; but
- (c) does not include a compost, soil treatment, or fertiliser that—
 - (i) is derived from plant or animal waste or residue; and
 - (ii) is minimally processed (for example, by being composted, mixed, dried, and pelleted).

33 Permitted activity

- (1) The following discharge of synthetic nitrogen fertiliser is a permitted activity if it complies with the condition:
 - (a) the discharge is for the purpose of applying nitrogen to land in pastoral land use; and
 - (b) the discharge is into the air, or into or onto land, including in circumstances that may result in the synthetic nitrogen fertiliser (or any other contaminant emanating as a result of natural processes from the fertiliser) entering water.

Condition

- (2) The condition is that the application of nitrogen, as a component of the synthetic nitrogen fertiliser, to the land in pastoral land use in a contiguous landholding must not exceed the nitrogen cap.

34 Non-complying activity

- (1) The following discharge of synthetic nitrogen fertiliser is a non-complying activity if it does not comply with the condition in regulation 33(2):

- (a) the discharge is for the purpose of applying nitrogen to land in pastoral land use; and
- (b) the discharge is into the air, or into or onto land, including in circumstances that may result in the synthetic nitrogen fertiliser (or any other contaminant emanating as a result of natural processes from the fertiliser) entering water.

Requirements for granting resource consent

- (2) A resource consent may be granted for the non-complying activity only if (in addition to section 104D of the Act being satisfied)—
 - (a) the applicant provides the consent authority with a report by a suitably qualified and experienced practitioner that—
 - (i) sets out good practices for applying synthetic nitrogen fertiliser to the land in pastoral land use in each relevant contiguous landholding; and
 - (ii) states that granting the consent would not result in the rate at which nitrogen may enter water exceeding the baseline rate for each contiguous landholding; and
 - (b) the consent authority is satisfied as to the matters in the practitioner's report.

Conditions required in resource consent

- (3) A resource consent granted for a non-complying activity under subclause (2) must impose conditions requiring its holder to—
 - (a) ensure that the rate at which nitrogen may enter water as a result of their application of synthetic nitrogen fertiliser to the land in pastoral land use in a contiguous landholding does not exceed the baseline rate for that contiguous landholding; and
 - (b) report their use of synthetic nitrogen fertiliser to the consent authority each year.

Term of resource consent

- (4) A resource consent granted for a non-complying activity under subclause (2) must be for a term of no more than 5 years.

Meaning of baseline rate

- (5) In this regulation, **baseline rate** means the rate at which nitrogen may enter water if—
 - (a) nitrogen, as a component of the synthetic nitrogen fertiliser, were applied to the land in pastoral land use in a contiguous landholding at the highest rate that does not exceed the nitrogen cap; and
 - (b) the synthetic nitrogen fertiliser were applied to the land in pastoral land use in the contiguous landholding using the good practices set out in the practitioner's report.

Alternative requirement for granting resource consent

- (6) As an alternative to subclause (2), a resource consent may be granted for the non-complying activity if (in addition to section 104D of the Act being satisfied) the consent authority is satisfied that the applicant has provided it with a synthetic nitrogen reduction plan.
- (7) A **synthetic nitrogen reduction plan** must demonstrate how the applicant will reduce their use of synthetic nitrogen fertiliser (year by year) so that, on and from 1 July 2023, their application of nitrogen, as a component of the fertiliser, to the land in pastoral land use in each relevant contiguous landholding does not exceed the nitrogen cap.

Conditions required in resource consent

- (8) A resource consent granted for a non-complying activity under subclause (6) must impose conditions requiring its holder to—
- (a) comply with their synthetic nitrogen reduction plan; and
 - (b) report their use of synthetic nitrogen fertiliser to the consent authority each year.

Term of resource consent

- (9) A resource consent granted for a non-complying activity under subclause (6) must be for a term that ends before 1 July 2023.

Revocation of alternative

- (10) Subclauses (6) to (10), and the headings above those subclauses, are revoked on 1 July 2023.

35 Compliance with regional rules

To avoid doubt, a discharge to which regulation 33(1) or 34(1) applies must comply with any applicable regional rule that relates to the discharge of nitrogen or its compounds (including synthetic nitrogen fertiliser) for agricultural purposes.

36 Operating dairy farm: monitoring and information required

A person who is responsible for operating a contiguous landholding that includes any dairy farm land must provide to the relevant regional council, no later than 31 July of each year, the following information relating to the previous 12-month period ending on 30 June of that year:

- (a) the area of land in pastoral land use in the contiguous landholding and, within that land, the areas of the following (all in hectares):
 - (i) the land used to grow annual forage crops:
 - (ii) the other land:
- (b) the area of land in other uses in the contiguous landholding (in hectares):

- (c) the receipts for the synthetic nitrogen fertiliser purchased for the contiguous landholding:
- (d) the types of synthetic nitrogen fertiliser applied to the contiguous landholding and, for each type, the percentage of the nitrogen component by weight:
- (e) the rate at which each type of synthetic nitrogen fertiliser was applied (in kg/ha/year)—
 - (i) to the land in pastoral land use in the contiguous landholding and, within that land, to—
 - (A) the land used to grow annual forage crops:
 - (B) the other land:
 - (ii) to the land in other uses in the contiguous landholding:
- (f) the dates on which the synthetic nitrogen fertiliser was applied.

Part 3

Standards for other activities that relate to freshwater

Subpart 1—Natural wetlands

37 When this subpart does not apply

This subpart does not apply to the customary harvest of food or resources undertaken in accordance with tikanga Māori.

Restoration of natural wetlands

38 Permitted activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of natural wetland restoration; and
 - (b) complies with the conditions.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of natural wetland restoration; 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 wetland is a permitted activity if it—
 - (a) is for the purpose of natural wetland restoration; and
 - (b) complies with the conditions.

Conditions

- (4) The conditions are that—
 - (a) the activity must comply with the general conditions on natural 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 m² or 10% of the area of the natural wetland, whichever is smaller.
- (5) However, the condition in subclause (4)(b) does not apply if the earthworks or land disturbance is for planting.

39 Restricted discretionary activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of natural wetland restoration; and
 - (b) does not comply with either of the conditions in regulation 38(4).
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of natural wetland restoration; and
 - (b) does not comply with either of the conditions in regulation 38(4).
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it is for the purpose of natural wetland restoration.

Matters to which discretion restricted

- (4) The discretion of a consent authority is restricted to the matters set out in regulation 56.

Requirement when applying for resource consent

- (5) An application for a resource consent for the restricted discretionary activity must include a restoration plan that includes the information set out in Schedule 2.

Condition required in resource consent

- (6) A resource consent granted for the restricted discretionary activity must impose a condition that requires compliance with the restoration plan.

*Scientific research***40 Permitted activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of scientific research; and

- (b) complies with the conditions.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of scientific research; 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 wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of scientific research; and
 - (b) complies with the conditions.

Conditions

- (4) The conditions are that—
 - (a) the activity must comply with the general conditions on natural wetland activities in regulation 55; and
 - (b) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and
 - (c) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not—
 - (i) occur over a single area within the natural wetland that is more than 10 m²; or
 - (ii) occur over a total area within the natural wetland that is more than 100 m².
- (5) However, the conditions in subclause (4)(c) do not apply if the earthworks or land disturbance is for planting.

41 Restricted discretionary activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of scientific research; and
 - (b) does not comply with any of the conditions in regulation 40(4).
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of scientific research; and
 - (b) does not comply with any of the conditions in regulation 40(4).
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of scientific research; and

- (b) complies with the conditions in subclause (4) of this regulation.

Conditions

- (4) The conditions are that—
 - (a) the activity must be undertaken only for as long as necessary to achieve its purpose; and
 - (b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and
 - (c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.
- (5) However, the condition in subclause (4)(c) does not apply to any part of the bed that is in direct contact with scientific research equipment.

Matters to which discretion restricted

- (6) The discretion of a consent authority is restricted to the matters set out in regulation 56.

Construction of wetland utility structures

42 Restricted discretionary activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it is for the purpose of constructing a wetland utility structure.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it is for the purpose of constructing a wetland utility structure.
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—
 - (a) is for the purpose of constructing a wetland utility structure; and
 - (b) complies with the conditions.

Conditions

- (4) The conditions are that—
 - (a) the activity must be undertaken only for as long as necessary to achieve its purpose; and
 - (b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and

- (c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.
- (5) However, the condition in subclause (4)(c) does not apply to any part of the bed that is in direct contact with the wetland utility structure.

Matters to which discretion restricted

- (6) The discretion of a consent authority is restricted to the matters set out in regulation 56.

Maintenance of wetland utility structures

43 Permitted activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining a wetland utility structure; and
 - (b) complies with the conditions.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining a wetland utility structure; 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 wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining a wetland utility structure; and
 - (b) complies with the conditions.

Conditions

- (4) The conditions are that—
 - (a) the activity must comply with the general conditions on natural wetland activities in regulation 55; and
 - (b) the activity must not be for the purpose of increasing the size of the wetland utility structure; and
 - (c) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and
 - (d) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not—
 - (i) occur over more than 2 m² around the base of each pile or post of the wetland utility structure, or 10% of the area of the natural wetland, whichever is a smaller area in total; or
 - (ii) occur more than 1 m away from the structure, if the activity is vegetation clearance.

- (5) However, the conditions in subclause (4)(d) do not apply if the earthworks or land disturbance is for planting.

44 Restricted discretionary activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of maintaining a wetland utility structure; and
 - (b) does not comply with any of the conditions in regulation 43(4).
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of maintaining a wetland utility structure; and
 - (b) does not comply with any of the conditions in regulation 43(4).
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is done for the purpose of maintaining a wetland utility structure; and
 - (b) does not comply with any of the conditions in regulation 43(4), but does comply with the conditions in subclause (4) of this regulation.

Conditions

- (4) The conditions are that—
- (a) the activity must be undertaken only for as long as necessary to achieve its purpose; and
 - (b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and
 - (c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.
- (5) However, the condition in subclause (4)(c) does not apply to any part of the bed that is in direct contact with a part of the wetland utility structure that was constructed for maintenance purposes.

Matters to which discretion restricted

- (6) The discretion of a consent authority is restricted to the matters set out in regulation 56.

*Construction of specified infrastructure***45 Discretionary activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a discretionary activity if it is for the purpose of constructing specified infrastructure.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a discretionary activity if it is for the purpose of constructing specified infrastructure.
- (3) Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural wetland is a discretionary activity if it—
 - (a) is for the purpose of constructing specified infrastructure; and
 - (b) results, or is likely to result, in the complete or partial drainage of all or part of the natural wetland.
- (4) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a discretionary activity if it is for the purpose of constructing specified infrastructure.

*Maintenance and operation of specified infrastructure and other infrastructure***46 Permitted activities**

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
 - (b) complies with the conditions.
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; 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 wetland is a permitted activity if it—
 - (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
 - (b) complies with the conditions.

Conditions

- (4) The conditions are that—
 - (a) the activity must comply with the general conditions on natural 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 hydro-electricity infrastructure); and
- (b) the activity must not be for the purpose of increasing the size of the specified infrastructure or other infrastructure; and
 - (c) the activity must not result in the formation of new pathways, boardwalks, or other accessways; and
 - (d) if the activity is vegetation clearance, earthworks, or land disturbance, the activity must not occur over more than 500 m² or 10% of the area of the natural wetland, whichever is smaller; and
 - (e) if the activity is earthworks or land disturbance,—
 - (i) trenches dug (for example, to maintain pipes) must be backfilled and compacted no later than 48 hours after being dug; and
 - (ii) the activity must not result in drains being deeper, relative to the natural wetland's water level, than they were before the activity.
- (5) However, the condition in subclause (4)(d) does not apply if the earthworks or land disturbance is for planting.

47 Restricted discretionary activities

- (1) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
 - (b) does not comply with any of the conditions in regulation 46(4).
- (2) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
 - (b) does not comply with any of the conditions in regulation 46(4).
- (3) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a restricted discretionary activity if it—
- (a) is for the purpose of maintaining or operating specified infrastructure or other infrastructure; and
 - (b) 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) However, the conditions in subclause (5) of this regulation do not apply if the activity is for the purpose of maintaining or operating hydro-electricity infrastructure.

Conditions

- (5) The conditions are that—
- (a) the activity must be undertaken only for as long as necessary to achieve its purpose; and
 - (b) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of the natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (c) to be verified; and
 - (c) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 30 days after the start of the activity.
- (6) However, 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.

Matters to which discretion restricted

- (7) The discretion of a consent authority is restricted to the matters set out in regulation 56.

*Sphagnum moss harvesting***48 Permitted activity: existing sphagnum moss harvests**

- (1) The harvest of sphagnum moss within a natural wetland is a permitted activity if—
- (a) sphagnum moss was harvested, or actively managed for harvest, in the area being harvested at any time between the start of 1 January 2010 and the close of 2 September 2020; and
 - (b) the harvest complies with the conditions.

Conditions

- (2) The conditions are that—
- (a) the harvest is carried out in accordance with a sphagnum moss harvesting plan that has been—
 - (i) provided to the relevant regional council at least 20 working days before the harvest is due to start; and
 - (ii) accepted by the relevant regional council on the basis that it has been prepared by a suitably qualified and experienced harvest operator and includes the information required by Schedule 3; and
 - (b) the harvest operator—
 - (i) monitors the harvesting operation throughout the harvest; and

- (ii) no later than 20 working days after the harvest ends, assesses the natural wetland by completing the form set out in Schedule 4 and provides the form to the relevant regional council.

49 Discretionary activity: new sphagnum moss harvests

- (1) The harvest of sphagnum moss within a natural wetland is a discretionary activity if sphagnum moss was not harvested, or actively managed for harvest, in the area being harvested at any time between the start of 1 January 2010 and the close of 2 September 2020.

Requirement when applying for resource consent

- (2) An application for a resource consent for the harvest must include a sphagnum moss harvesting plan that—
 - (a) has been prepared by a suitably qualified and experienced harvest operator; and
 - (b) includes the information required by Schedule 3.

Conditions required in resource consent

- (3) A resource consent granted for the harvest must impose conditions that require—
 - (a) the harvest to comply with the sphagnum moss harvesting plan; and
 - (b) the harvest operator to monitor the harvest operation throughout the harvest; and
 - (c) the harvest operator to assess the natural wetland after the harvest by completing the form set out in Schedule 4 and to provide the form to the consent authority no later than 20 working days after the harvest ends.

Arable and horticultural land use

50 Permitted activities

- (1) Vegetation clearance outside, but within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of arable land use or horticultural land use in an area that was used for either of those uses at any time between the start of 1 January 2010 and the close of 2 September 2020; and
 - (b) complies with the general conditions on natural wetland activities in regulation 55 (but regulation 55(2) does not apply).
- (2) Earthworks or land disturbance outside, but within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of arable land use or horticultural land use in an area that was used for either of those uses at any time between the start of 1 January 2010 and the close of 2 September 2020; and

- (b) complies with the general conditions on natural wetland activities in regulation 55 (but regulation 55(2) does not apply).

Natural hazard works

51 Permitted activities

Meaning of natural hazard works

- (1) In this regulation, **natural hazard works** means works for the purpose of removing material, such as trees, debris, and sediment, that—
 - (a) is deposited as the result of a natural hazard; and
 - (b) is causing, or is likely to cause, an immediate hazard to people or property.

Permitted activities for purpose of natural hazard works

- (2) Vegetation clearance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of natural hazard works; and
 - (b) complies with the conditions.
- (3) Earthworks or land disturbance within, or within a 10 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of natural hazard works; and
 - (b) complies with the conditions.
- (4) The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a permitted activity if it—
 - (a) is for the purpose of natural hazard works; and
 - (b) complies with the conditions.

Conditions

- (5) The conditions are that—
 - (a) the activity must not—
 - (i) result in land becoming unstable; or
 - (ii) result in, or involve, debris or other materials being deposited in the natural wetland; and
 - (b) the activity must be undertaken only to the extent necessary to achieve the purpose of the natural hazard works; and
 - (c) if the activity changes the profile of the bed of the natural wetland, the profile must be restored so that it does not inhibit the passage of fish; and
 - (d) if the activity is earthworks or land disturbance, erosion and sediment control measures must,—

- (i) during and after the earthworks, be applied and maintained at the site of the activity to minimise adverse effects of sediment on the natural wetland; and
 - (ii) include stabilising or containing soil that is exposed or disturbed by the activity as soon as practicable after the activity ends; and
- (e) as soon as practicable (but no later than 3 months) after the activity ends,—
- (i) debris, materials, and equipment relating to the activity must be removed from the site; and
 - (ii) the site must be free from litter.

Drainage of natural wetlands

52 Non-complying activities

- (1) Earthworks outside, but within a 100 m setback from, a natural wetland is a non-complying activity if it—
- (a) results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and
 - (b) does not have another status under any of regulations 38 to 51.
- (2) The taking, use, damming, diversion, or discharge of water outside, but within a 100 m setback from, a natural wetland is a non-complying activity if it—
- (a) results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and
 - (b) does not have another status under any of regulations 38 to 51.

53 Prohibited activities

- (1) Earthworks within a natural wetland is a prohibited activity if it—
- (a) results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and
 - (b) does not have another status under any of regulations 38 to 51.
- (2) The taking, use, damming, diversion, or discharge of water within a natural wetland is a prohibited activity if it—
- (a) results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland; and
 - (b) does not have another status under any of regulations 38 to 51.

Other activities

54 Non-complying activities

The following activities are non-complying activities if they do not have another status under this subpart:

- (a) vegetation clearance within, or within a 10 m setback from, a natural wetland:
- (b) earthworks within, or within a 10 m setback from, a natural wetland:
- (c) the taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland.

General matters

55 General conditions on natural wetland activities

- (1) This regulation applies if a regulation in this subpart refers to the compliance of an activity with the general conditions in this regulation.

General condition for permitted activities: prior notice of activity

- (2) If this regulation applies in relation to a permitted activity, the 1 or more persons responsible for undertaking the activity must, at least 10 working days before starting the activity, provide the relevant regional council with the following information in writing:
 - (a) a description of the activity to be undertaken; and
 - (b) a description of, and map showing, where the activity will be undertaken; and
 - (c) a statement of when the activity will start and when it is expected to end; and
 - (d) a description of the extent of the activity; and
 - (e) their contact details.

General conditions: water quality and movement

- (3) The general conditions relating to water quality and movement are as follows:
 - (a) the activity must not result in the discharge of a contaminant if the receiving environment includes any natural wetland in which the contaminant, after reasonable mixing, causes, or may cause, 1 or more of the following effects:
 - (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
 - (ii) a conspicuous change in colour or visual clarity:
 - (iii) an emission of objectionable odour:
 - (iv) the contamination of freshwater to the extent that it is not suitable for farm animals to drink:
 - (v) adverse effects on aquatic life that are more than minor; and
 - (b) the activity must not increase the level of flood waters that would, in any flood event (regardless of probability), inundate all or any part of the 1% AEP floodplain (but *see* subclause (4)); and

- (c) the activity must not alter the natural movement of water into, within, or from any natural wetland (but *see* subclause (5)); and
 - (d) the activity must not involve taking or discharging water to or from any natural wetland (but *see* subclause (5)); and
 - (e) debris and sediment must not—
 - (i) be placed within a setback of 10 m from any natural wetland; or
 - (ii) be allowed to enter any natural wetland.
- (4) Subclause (3)(b) does not apply if the person undertaking the activity—
- (a) owns or controls the only land or structures that would be affected by a flood in all or any part of the 1% AEP floodplain; or
 - (b) has—
 - (i) obtained written consent to undertaking the activity from each person who owns or controls the land or structures that would be affected by a flood in all or part of the 1% AEP floodplain, after informing them of the expected increase in the level of flood waters; and
 - (ii) satisfied the relevant regional council that they have complied with subparagraph (i).
- (5) Despite subclause (3)(c) and (d), the temporary taking, use, damming, or diversion of water around a work site, or discharges of water into the water around a work site, may be undertaken if the following conditions are complied with:
- (a) the activity must be undertaken during a period when there is a low risk of flooding; and
 - (b) the activity must be undertaken only for as long as necessary to achieve its purpose; and
 - (c) before the activity starts, a record must be made (for example, by taking photographs) of the original condition of any affected natural wetland's bed profile and hydrological regime that is sufficiently detailed to enable compliance with paragraph (d) to be verified; and
 - (d) the bed profile and hydrological regime of the natural wetland must be returned to their original condition no later than 14 days after the start of the activity; and
 - (e) if the activity is damming, the dam must be no higher than 600 mm; and
 - (f) if the activity is a diversion that uses a pump, a fish screen with mesh spacing no greater than 3 mm must be used on the intake.
- (6) In subclauses (3) and (4), **1% AEP floodplain** means the area that would be inundated in a flood event of a size that has a 1% or greater probability of occurring in any one year.

General condition: earth stability and drainage

- (7) The general condition relating to earth stability and drainage is that the activity must not create or contribute to—
- (a) the instability or subsidence of a slope or another land surface; or
 - (b) the erosion of the bed or bank of any natural wetland; or
 - (c) a change in the points at which water flows into or out of any natural wetland; or
 - (d) a constriction on the flow of water within, into, or out of any natural wetland; or
 - (e) the flooding or overland flow of water within, or flowing into or out of, any natural wetland.

General conditions: earthworks, land disturbance, and vegetation clearance

- (8) The general conditions on earthworks, land disturbance, and vegetation clearance are as follows:
- (a) during and after the activity, erosion and sediment control measures must be applied and maintained at the site of the activity to minimise adverse effects of sediment on natural wetlands; and
 - (b) the measures must include stabilising or containing soil that is exposed or disturbed by the activity as soon as practicable after the activity ends; and
 - (c) the measures referred to in paragraph (b) must remain in place until vegetation covers more than 80% of the site; and
 - (d) if the activity is vegetation clearance, it must not result in earth remaining bare for longer than 3 months.

General conditions: vegetation and bird and fish habitats

- (9) The general conditions relating to vegetation and bird and fish habitats are as follows:
- (a) only indigenous species that are appropriate to a natural wetland (given the location and type of the natural wetland) may be planted in it; and
 - (b) the activity must not result in the smothering of indigenous vegetation by debris and sediment; and
 - (c) the activity must not disturb the roosting or nesting of indigenous birds during their breeding season; and
 - (d) the activity must not disturb an area that is listed in a regional plan or water conservation order as a habitat for threatened indigenous fish; and
 - (e) the activity must not, during a spawning season, disturb an area that is listed in a regional plan or water conservation order as a fish spawning area.

General condition: historic heritage

- (10) The general condition relating to historic heritage is that the activity must not destroy, damage, or modify a site that is protected by an enactment because of the site's historic heritage (including, to avoid doubt, because of its significance to Māori), except in accordance with that enactment.
- (11) In subclause (10), **enactment** includes any kind of instrument made under an enactment.

General conditions: machinery, vehicles, equipment, and construction materials

- (12) The general conditions on the use of vehicles, machinery, equipment, and materials are as follows:
- (a) machinery, vehicles, and equipment used for the activity must be cleaned before entering any natural wetland (to avoid introducing pests, unwanted organisms, or exotic plants); and
 - (b) machinery that is used for the activity must sit outside a natural wetland, unless it is necessary for the machinery to enter the natural wetland to achieve the purpose of the activity; and
 - (c) if machinery or vehicles enter any natural wetland, they must be modified or supported to prevent them from damaging the natural wetland (for example, by widening the tracks of track-driven vehicles or using platforms for machinery to sit on); and
 - (d) the mixing of construction materials, and the refuelling and maintenance of vehicles, machinery, and equipment, must be done outside a 10 m setback from any natural wetland.

General conditions: miscellaneous

- (13) The other general conditions are as follows:
- (a) the activity must be undertaken only to the extent necessary to achieve its purpose; and
 - (b) the activity must not involve the use of fire or explosives; and
 - (c) if there is existing public access to a natural wetland, the activity must not prevent the public from continuing to access the natural wetland (unless that is required to protect the health and safety of the public or the persons undertaking the activity); and
 - (d) no later than 5 days after the activity ends,—
 - (i) debris, materials, and equipment relating to the activity must be removed from the site; and
 - (ii) the site must be free from litter.

56 Restricted discretionary activities: matters to which discretion is restricted

The discretion of a consent authority is restricted to the following matters if an activity is a restricted discretionary activity under this subpart:

- (a) the extent to which the nature, scale, timing, intensity, and location of the activity may have adverse effects on—
 - (i) the existing and potential values of the natural wetland, its catchment, and the coastal environment; and
 - (ii) the extent of the natural wetland; and
 - (iii) the seasonal and annual hydrological regime of the natural wetland; and
 - (iv) the passage of fish in the natural wetland or another water body:
- (b) whether there are practicable alternatives to undertaking the activity that would avoid those adverse effects:
- (c) the extent to which those adverse effects will be managed to avoid the loss of the extent of the natural wetland and its values:
- (d) other measures to minimise or remedy those adverse effects:
- (e) how any of those adverse effects that are more than minor may be offset or compensated for if they cannot be avoided, minimised, or remedied:
- (f) the risk of flooding upstream or downstream of the natural wetland, and the measures to avoid, minimise, or remedy that risk:
- (g) the social, economic, environmental, and cultural benefits (if any) that are likely to result from the proposed activity (including the extent to which the activity may protect, maintain, or enhance ecosystems).

Subpart 2—Reclamation of rivers**57 Discretionary activities**

Reclamation of the bed of any river is a discretionary activity.

Subpart 3—Passage of fish affected by structures*How this subpart applies***58 Purpose of this subpart**

The purpose of this subpart is to deal with the effects on the passage of fish of the placement, use, alteration, extension, or reconstruction of any of the following structures in, on, over, or under the bed of any river or connected area:

- (a) a culvert:
- (b) a weir:
- (c) a flap gate (whether passive or non-passive):

- (d) a dam:
- (e) a ford.

59 When multiple provisions of this subpart apply

If an overall structure is made up of 2 or more structures to which different provisions of this subpart apply (for example, a culvert with a flap gate), those provisions apply to the respective parts of the overall structure.

60 When this subpart does not apply

This subpart does not apply to any of the following structures in, on, over, or under the bed of any river or connected area:

- (a) an existing structure, meaning a structure that was in the river or connected area at the close of 2 September 2020, and including any later alterations or extensions of that structure:
- (b) a customary weir, meaning a weir that is used for the purpose of practising tikanga Māori, including customary fishing practices.

Information requirements

61 Purpose of information requirements

The purpose of the regulations in this subpart that require information is to ensure that the relevant regional council obtains information on the design and performance of structures in relation to the passage of fish.

62 Requirement for all activities: information about structures and passage of fish

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of any of the following structures in, on, over, or under the bed of any river or connected area:
 - (i) a culvert:
 - (ii) a weir:
 - (iii) a flap gate (whether passive or non-passive):
 - (iv) a dam:
 - (v) a ford; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent, whether under this subpart or otherwise.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or

- (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—
 - (a) the type of structure:
 - (b) the geographical co-ordinates of the structure:
 - (c) the flow of the river or connected area (whether none, low, normal, or high):
 - (d) whether the water is tidal at the structure's location:
 - (e) at the structure's location,—
 - (i) the width of the river or connected area at the water's surface; and
 - (ii) the width of the bed of the river or connected area:
 - (f) whether there are improvements to the structure to mitigate any effects the structure may have on the passage of fish:
 - (g) whether the structure protects particular species, or prevents access by particular species to protect other species:
 - (h) the likelihood that the structure will impede the passage of fish:
 - (i) visual evidence (for example, photographs) that shows both ends of the structure, viewed upstream and downstream.

63 Requirement for culvert activities: information about culverts

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of any river or connected area; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent, whether under this subpart or otherwise.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or
 - (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—
 - (a) the culvert's asset identification number, if known:
 - (b) whether the culvert's ownership is—
 - (i) held by the Crown (for example, the Department of Conservation), a regional council, a territorial authority, the New Zealand Transport Agency, or KiwiRail Holdings Limited; or
 - (ii) held publicly by another person or organisation; or

- (iii) held privately; or
- (iv) unknown:
- (c) the number of barrels that make up the culvert:
- (d) the culvert's shape:
- (e) the culvert's length:
- (f) the culvert's diameter or its width and height:
- (g) the height of the drop (if any) from the culvert's outlet:
- (h) the length of the undercut or erosion (if any) from the culvert's outlet:
- (i) the material from which the culvert is made:
- (j) the mean depth of the water through the culvert:
- (k) the mean water velocity in the culvert:
- (l) whether there are low-velocity zones downstream of the culvert:
- (m) the type of bed substrate that is in most of the culvert:
- (n) whether there are any remediation features (for example, baffles or spat rope) in the culvert:
- (o) whether the culvert has wetted margins:
- (p) the slope of the culvert:
- (q) the alignment of the culvert:
- (r) the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the culvert:
- (s) if there is any apron or ramp on the culvert, the information required by regulation 68 for each of them.

64 Requirement for weir activities: information about weirs

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of a weir in, on, over, or under the bed of any river or connected area; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent, whether under this subpart or otherwise.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or
 - (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—
 - (a) the weir's asset identification number, if known:

- (b) whether the weir's ownership is—
 - (i) held by the Crown (for example, the Department of Conservation), a regional council, a territorial authority, the New Zealand Transport Agency, or KiwiRail Holdings Limited; or
 - (ii) held publicly by another person or organisation; or
 - (iii) held privately; or
 - (iv) unknown:
- (c) the type of weir:
- (d) the weir's crest shape:
- (e) the weir's height:
- (f) the weir's width:
- (g) the material from which the weir is made:
- (h) the type of bed substrate that is present across most of the weir:
- (i) whether there are any remediation features (for example, baffles or spat rope) in the weir:
- (j) whether the weir has wetted margins:
- (k) the slope of the weir:
- (l) the backwater distance from the weir, meaning the distance furthest upstream where the water level is influenced by the weir:
- (m) the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the weir:
- (n) if there is any apron or ramp on the weir, the information required by regulation 68 for each of them.

65 Requirement for flap gate activities: information about flap gates

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of a flap gate (whether passive or non-passive) in, on, over, or under the bed of any river or connected area; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent, whether under this subpart or otherwise.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or
 - (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—

- (a) the flap gate's asset identification number, if known:
- (b) whether the flap gate's ownership is—
 - (i) held by the Crown (for example, the Department of Conservation), a regional council, a territorial authority, the New Zealand Transport Agency, or KiwiRail Holdings Limited; or
 - (ii) held publicly by another person or organisation; or
 - (iii) held privately; or
 - (iv) unknown:
- (c) the type of flap gate:
- (d) the flap gate's height:
- (e) the flap gate's width:
- (f) the material from which the flap gate is made:
- (g) the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the flap gate:
- (h) if there is any apron or ramp on the flap gate, the information required by regulation 68 for each of them.

66 Requirement for dam activities: information about dams

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of a dam in, on, over, or under the bed of any river or connected area; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or
 - (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—
 - (a) the dam's asset identification number, if known:
 - (b) whether the dam's ownership is—
 - (i) held by the Crown (for example, the Department of Conservation), a regional council, a territorial authority, the New Zealand Transport Agency, or KiwiRail Holdings Limited; or
 - (ii) held publicly by another person or organisation; or
 - (iii) held privately; or
 - (iv) unknown:

- (c) the dam's height:
- (d) whether the dam has a spillway, meaning a structure used to control the release of flows from the dam into a downstream area:
- (e) the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the dam:
- (f) if there is any apron or ramp on the dam, the information required by regulation 68 for each of them.

67 Requirement for ford activities: information about fords

- (1) This regulation applies to any activity that—
 - (a) is the placement, alteration, extension, or reconstruction of a ford in, on, over, or under the bed of any river or connected area; and
 - (b) is a permitted activity, or a class of activity that requires a resource consent.
- (2) The information specified in this regulation must be collected and provided to the relevant regional council, together with the time and date of its collection, within 20 working days after the activity is finished,—
 - (a) for a permitted activity; or
 - (b) as a condition of a resource consent granted for the activity, for another class of activity.
- (3) The information is—
 - (a) the ford's asset identification number, if known:
 - (b) whether the ford's ownership is—
 - (i) held by the Crown (for example, the Department of Conservation), a regional council, a territorial authority, the New Zealand Transport Agency, or KiwiRail Holdings Limited; or
 - (ii) held publicly by another person or organisation; or
 - (iii) held privately; or
 - (iv) unknown:
 - (c) the ford's length:
 - (d) the ford's width:
 - (e) the height of the drop (if any) from the ford's downstream end:
 - (f) the material from which the ford is made:
 - (g) the type of bed substrate that is across most of the ford:
 - (h) the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the ford:
 - (i) if there is any apron or ramp on the ford, the information required by regulation 68 for each of them.

68 Requirement for certain structure activities: information about aprons and ramps*Apron*

- (1) The following information relating to an apron is required:
 - (a) the apron's length:
 - (b) the height of the drop (if any) from the apron's downstream end:
 - (c) the material from which the apron is made:
 - (d) the mean depth of the water across the apron:
 - (e) the mean water velocity across the apron:
 - (f) the type of bed substrate that is across most of the apron.

Ramp

- (2) The following information relating to a ramp is required:
 - (a) the ramp's length:
 - (b) the slope of the ramp:
 - (c) the type of surface that the ramp has:
 - (d) whether the ramp has wetted margins.

*Monitoring and maintenance requirements***69 Condition of resource consent for activities: monitoring and maintenance**

- (1) This regulation applies to any activity that—
 - (a) is the placement, use, alteration, extension, or reconstruction of any of the following structures in, on, over, or under the bed of any river or connected area:
 - (i) a culvert:
 - (ii) a weir:
 - (iii) a flap gate (whether passive or non-passive):
 - (iv) a dam:
 - (v) a ford; and
 - (b) is a class of activity that requires a resource consent, whether under this subpart or otherwise.
- (2) A resource consent granted for the activity must impose conditions that—
 - (a) require monitoring and maintenance of the structure that is sufficient to ensure that its provision for the passage of fish does not reduce over its lifetime; and
 - (b) require a plan for that monitoring and maintenance that includes—
 - (i) how the monitoring and maintenance will be done; and

- (ii) the steps to be taken to avoid any adverse effects on the passage of fish; and
 - (iii) the steps to be taken to ensure that the structure's provision for the passage of fish does not reduce over its lifetime; and
 - (iv) how often, as specified by the consent authority, the information must be provided under paragraph (c) (for the purposes of reassessing the structure's effect on the passage of fish); and
 - (v) a process for providing that information; and
- (c) require an updated version of the information relating to the structure that was required for the original resource consent to be provided to the consent authority at the following times:
- (i) at the intervals required by the plan; and
 - (ii) each time a significant natural hazard affects the structure.

Culverts

70 Permitted activities

- (1) The placement, use, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of any river or connected area is a permitted activity if it complies with the conditions.

Conditions

- (2) The conditions are that—
- (a) the culvert must provide for the same passage of fish upstream and downstream as would exist without the culvert, except as required to carry out the works to place, alter, extend, or reconstruct the culvert; and
 - (b) the culvert must be laid parallel to the slope of the bed of the river or connected area; and
 - (c) the mean cross-sectional water velocity in the culvert must be no greater than that in all immediately adjoining river reaches; and
 - (d) the culvert's width where it intersects with the bed of the river or connected area (**s**) and the width of the bed at that location (**w**), both measured in metres, must compare as follows:
 - (i) where $w \leq 3$, $s \geq 1.3 \times w$;
 - (ii) where $w > 3$, $s \geq (1.2 \times w) + 0.6$; and
 - (e) the culvert must be open-bottomed or its invert must be placed so that at least 25% of the culvert's diameter is below the level of the bed; and
 - (f) the bed substrate must be present over the full length of the culvert and stable at the flow rate at or below which the water flows for 80% of the time; and

- (g) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris).

Information requirements

- (3) *See also* regulations 62 and 63 for information requirements that apply to the permitted activity (unless the activity is use).

71 Discretionary activities

- (1) The placement, use, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of a river is a discretionary activity if it does not comply with any of the conditions in regulation 70(2).

Conditions required in resource consent

- (2) A resource consent granted for the discretionary activity must impose the conditions required by—
 - (a) regulations 62 and 63 (information about structures and passage of fish and about culverts), unless the activity is use; and
 - (b) regulation 69 (monitoring and maintenance).

Weirs

72 Permitted activities

- (1) The placement, use, alteration, extension, or reconstruction of a weir in, on, over, or under the bed of any river or connected area is a permitted activity if it complies with the conditions.

Conditions

- (2) The conditions are that—
 - (a) the weir must provide for the same passage of fish upstream and downstream as would exist without the weir, except as required to carry out the works to place, alter, extend, or reconstruct the weir; and
 - (b) the fall height of the weir must be no more than 0.5 m; and
 - (c) the slope of the weir must be no steeper than 1:30; and
 - (d) the face of the weir must have roughness elements that are mixed grade rocks of 150 to 200 mm diameter and irregularly spaced no more than 90 mm apart to create a hydraulically diverse flow structure across the weir (including any wetted margins); and
 - (e) the weir's lateral profile must be V-shaped, sloping up at the banks, and with a low-flow channel in the centre, with the lateral cross-section slope between 5° to 10°.

Information requirements

- (3) *See also* regulations 62 and 64 for information requirements that apply to the permitted activity (unless the activity is use).

73 Discretionary activities

- (1) The placement, use, alteration, extension, or reconstruction of a weir in, on, over, or under the bed of a river is a discretionary activity if it does not comply with any of the conditions in regulation 72(2).

Conditions required in resource consent

- (2) A resource consent granted for the discretionary activity must impose the conditions required by—
- (a) regulations 62 and 64 (information about structures and passage of fish and about weirs), unless the activity is use; and
 - (b) regulation 69 (monitoring and maintenance).

Passive flap gates

74 Non-complying activities

- (1) The placement, use, alteration, extension, or reconstruction of a passive flap gate in, on, over, or under the bed of any river or connected area is a non-complying activity.

Conditions required in resource consent

- (2) A resource consent granted for the non-complying activity must impose the conditions required by—
- (a) regulations 62 and 65 (information about structures and passage of fish and about flap gates), unless the activity is use; and
 - (b) regulation 69 (monitoring and maintenance).

Part 4**Local authorities may charge for monitoring permitted activities****75 Local authorities may charge for monitoring permitted activities**

A local authority may charge for monitoring activities that are permitted activities under these regulations, if the authority is responsible for monitoring those activities.

Schedule 1**Transitional, savings, and related provisions**

r 4

Part 1**Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions relating to these regulations as made.

Schedule 2

Restoration plans for natural wetlands

r 39

1 Details of activity site and natural wetland

The following information:

- (a) the physical address of the site of the activity;
- (b) the names of the owners of the site;
- (c) the contact details for the owners;
- (d) the legal description of the site, including the estate or interest held by the owners and any legal status or designation that applies to the site;
- (e) a map showing the location and boundaries of the natural wetland;
- (f) the details of the legal status of the natural wetland under any enactment or plan;
- (g) the details of any management partners or key stakeholders involved in the restoration plan.

2 Features and values of natural wetland

A description of the features and values of the natural wetland that are relevant to a restoration plan, including the following information:

- (a) the type of natural wetland;
- (b) the vegetation in the natural wetland, including the dominant types of vegetation and any species of note (for example, rare species, invasive weeds, or unusual plant communities);
- (c) the hydrology of the natural wetland, including—
 - (i) its water sources and flows (for example, streams, rivers, seeps, or solely rain);
 - (ii) its water levels (for example, permanent open water of more than 1 m depth, shallow water of 5 cm to 1 m depth, or conditions of being saturated with water of -5 to +5 cm depth, seasonally saturated, generally dry, or dry);
 - (iii) any modifications (for example, drains, weirs, culverts, canals, or stop banks);
- (d) the types of soil in the natural wetland;
- (e) any artificial features in the natural wetland (for example, roads, electricity lines, buildings, and access points);
- (f) any fauna known to use the natural wetland or its surrounding area;

- (g) any special features of the natural wetland (for example, sites of cultural significance such as archaeological features, areas of cultural harvest, historic sites, or recreational areas).

3 Issues with natural wetland

The following information:

- (a) a description of the current state or condition of the features and values of the natural wetland:
- (b) a discussion of the threats to the natural wetland and the opportunities for restoring its features and values.

4 Management objectives for natural wetland

The specific objectives for managing the natural wetland based on its features, values, and issues, and taking into account—

- (a) its legal status under any enactment or plan; and
- (b) any existing or required resource consents or agreements with landowners or other relevant persons.

5 Operational details for achieving management objectives

An outline of the activities that will be carried out to achieve the objectives for managing the natural wetland, including the following:

- (a) the timelines for the activities and the persons responsible for resourcing and delivering them:
- (b) scale plans showing the operational areas:
- (c) the planting to be done, including—
 - (i) a diagram showing the general areas for planting:
 - (ii) the species to be used within specific areas (for example, areas of standing water, wetter margin areas, or drier areas):
 - (iii) the spacing of the plants:
 - (iv) the sources of the plants (for example, local native plant nurseries or locally-sourced seed):
 - (v) the approach to releasing the plants (including how often, for how many years, and by what method weeding will be done around the plants):
- (d) any vegetation to be removed, including species and methods of removal (for example, cutting, digging, or spraying):
- (e) any machinery to be used and the purpose of its use:
- (f) a description of the approach to water management, including—
 - (i) any changes to water levels or movement of water during and after the restoration works:

- (ii) if water will be dammed or diverted,—
 - (A) how that will restore or enhance the natural wetland:
 - (B) any structures that will be installed:
 - (C) the time of year when the works will be carried out:
 - (D) the methods to be used to minimise effects on flora and fauna:
- (g) the approach to managing erosion and sediment to be used during all of the works:
- (h) any animal pest control to be carried out, including—
 - (i) which animal pests are present:
 - (ii) how often, and for how many years, the animal pest control will be carried out:
 - (iii) the method by which the animal pest control will be carried out:
- (i) a description of the actions to be taken to minimise any adverse effects on fauna or to enhance values for fauna.

6 Review and reporting

A description of the approach for assessing progress against the restoration plan and reporting that progress to the consent authority, including—

- (a) timelines for reporting progress; and
- (b) how any requirement to report under a resource consent will be met.

Schedule 3

Sphagnum moss harvesting plans

rr 48, 49

1 Property and natural wetland details

The following information:

- (a) the physical address of the site of the activity:
- (b) the names of the owners of the site:
- (c) the contact details for the owners:
- (d) the name of the harvest operator:
- (e) the contact details for the harvest operator:
- (f) the legal description of the site, including the estate or interest held by the owners and any legal status or designation that applies to the site:
- (g) a map showing the location and boundaries of the natural wetland that is to be harvested:
- (h) photographs of the area to be harvested:
- (i) the details of the legal status of the natural wetland under any enactment or plan.

2 Operational details

An outline of the activities to occur in undertaking the sphagnum harvesting (including maps showing the operational areas), timelines for the harvesting, and confirmation that each requirement specified in the checklist of conditions for harvesting in Schedule 4 will be met.

Schedule 4**Form for assessing natural wetlands after harvest of sphagnum moss**

rr 48, 49

Form

Assessment of natural wetland after harvest of sphagnum moss

General information

- 1 Today's date:
- 2 Name of harvesting organisation/company:
- 3 Name of harvest operator:
- 4 Name and identification number of natural wetland (if any):
- 5 Address/location of harvesting site:
- 6 Legal description of area that includes site:
- 7 Map reference for site:
- 8 Harvested area: [*attach map*]
- 9 Dates of harvesting:

Checklist of conditions for harvesting

- 1 Natural hydrological processes have been maintained because—
 - (a) the post-harvest moss surface is near but above the water level
 - (b) the hydrological regime of the area has not been altered in any way
 - (c) only existing formed accessways were used to access the harvested area [*attach map showing accessways*]
 - (d) drains and weirs were not used to manipulate water levels
- 2 Machinery or vehicles that entered the natural wetland were modified or supported to prevent them from damaging the natural wetland (for example, by widening the tracks of a track-driven vehicle or using platforms for the machinery to sit on)
- 3 Vegetation was crushed only for the purpose of maintaining sphagnum dominance and only during harvesting, as a component of the harvesting, or after harvesting to rehabilitate the sphagnum moss in the natural wetland area
- 4 Only the living portion (acrotelm) of the moss was removed
- 5 All machinery, vehicles, and equipment were cleaned before entering the natural wetland (to avoid introducing pests, unwanted organisms, or exotic plants)
- 6 No moss or plant was removed from the margins of a water body

- 7 Only containers of 20 litres or less were used to refuel machinery, vehicles, and equipment outside a 10 m setback from the natural wetland
- 8 Fertiliser was not dispersed in the natural wetland
- 9 No breeding, roosting, or nesting site of an indigenous, a rare, or a threatened bird species was disturbed
- 10 Debris, materials, and equipment relating to the harvesting were removed from the site, and the site was free from litter, after the harvesting was finished
- 11 The harvested area and its accessways were disturbed only to the extent necessary to carry out harvesting

Detailed information on particular conditions

- 1 Describe how the harvesting was undertaken:
- 2 Describe how any vehicle or machinery used for harvesting was modified or supported to prevent it from damaging the natural wetland: [*attach photos of vehicles or machinery*]
- 3 Provide any other information that you think is relevant:
- 4 Attach dated photos showing the site before, during, and after the harvesting.

Note about site visit

After compliance staff receive this form, they will organise a visit to the site to assess the information contained in the form.

Michael Webster,
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 are made under the Resource Management Act 1991 and prescribe national environmental standards in relation to freshwater. Most of the regulations come into force on 3 September 2020. However,—

- *subpart 3 of Part 2* (which relates to intensive winter grazing) comes into force on 1 May 2021:
- *regulations 12 to 14* (which relate to stockholding areas other than feedlots) and *subpart 4 of Part 2* (which relates to the application of synthetic nitrogen fertiliser to pastoral land) come into force on 1 July 2021.

Part 1: preliminary provisions

Part 1—

- defines the key terms used in the regulations (*regulation 3*);
- states that the regulations relate only to the functions of regional councils (*regulation 5*);
- deals with the relationship between the regulations and district and regional rules, resource consents, and the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (*regulations 6 and 7*).

Part 2: standards for farming activities

Except for *regulations 16 to 19* (which relate to conversions to pastoral land use and dairy farm land), *Part 2* applies only to farms of a certain size.

Subpart 1 of Part 2: feedlots and other stockholding areas

This subpart relates to the holding of cattle in feedlots and other stockholding areas, and to associated discharges of contaminants. The subpart classes those activities as permitted, discretionary, or non-complying activities, depending on whether they comply with certain conditions.

Subpart 2 of Part 2: agricultural intensification: temporary standards

This subpart sets out temporary standards for agricultural intensification. The subpart is revoked on 1 January 2025. Before then, it applies until the National Policy Statement for Freshwater Management is implemented in the relevant region.

The subpart regulates the use of land for, and discharges of contaminants associated with, the following activities:

- the conversion of plantation forestry to pastoral land use (*regulations 16 and 17*);
- the conversion of land on a farm to dairy farm land (*regulations 18 and 19*);
- the irrigation of dairy farm land (*regulations 20 and 21*);
- the grazing of dairy support cattle (*regulations 22 and 23*).

The activities are classed as permitted or discretionary activities, depending on whether they comply with conditions that set limits on the area of land that may be used for the activity.

Subpart 3 of Part 2: intensive winter grazing

This subpart classes intensive winter grazing, and associated discharges of contaminants, as permitted, restricted discretionary, or discretionary activities, depending on whether they comply with certain conditions.

One condition for a permitted activity is a requirement to replant the land as soon as practicable, but no later than 1 October of the year in which the intensive winter graz-

ing takes place. However, until 1 May 2024, the last date for replanting on farms in Otago and Southland is extended until 1 November.

Regulation 29 imposes temporary conditions on the area of land that may be used for intensive winter grazing. The conditions are similar to those that apply to other activities under *subpart 2 of Part 2*. An activity that does not comply with the conditions is a discretionary activity. The temporary conditions do not apply if the National Policy Statement for Freshwater Management has been implemented in the relevant region, and they are revoked on 1 January 2025.

Subpart 4 of Part 2: application of synthetic nitrogen fertiliser to pastoral land

This subpart relates to the activity of discharging synthetic nitrogen fertiliser into the air, or into or onto land, for the purpose of applying nitrogen to land in pastoral land use.

Regulations 33 and 34 class the discharge activity as a permitted or non-complying activity, depending on whether it complies with a condition. The condition is that the application of nitrogen, as a component of the fertiliser, to the land in pastoral land use in a contiguous landholding must not exceed a nitrogen cap of 190 kg/ha/year assessed in 2 different ways.

Regulation 36 requires information from the operator of a contiguous landholding that includes dairy farm land.

Part 3: standards for other activities that relate to freshwater

Subpart 1 of Part 3: natural wetlands

This subpart does not apply to the customary harvest of food or resources undertaken in accordance with tikanga Māori.

The subpart mainly regulates vegetation clearance, earthworks, land disturbance, and the taking, use, damming, diversion, and discharge of water (**water-related activities**) within, or within in a certain setback from, a natural wetland.

Those activities are classed as permitted, restricted discretionary, discretionary, non-complying, or prohibited activities, depending on whether they comply with certain conditions and are carried out for certain purposes. The purposes are—

- restoring natural wetlands (*regulations 38 and 39*):
- scientific research (*regulations 40 and 41*):
- constructing and maintaining wetland utility structures (*regulations 42 to 44*):
- constructing specified infrastructure (*regulation 45*):
- maintaining or operating specified infrastructure or other infrastructure (*regulations 46 and 47*):
- growing crops or flowers (*regulation 50*):
- carrying out natural hazard works (*regulation 51*).

Regulations 48 and 49 deal with the status of sphagnum moss harvests that are undertaken within a natural wetland.

Regulation 53 provides that earthworks and water-related activities are prohibited if they are undertaken within a natural wetland, result (or are likely to result) in the drainage of all or part of a natural wetland, and do not have another status under any of *regulations 38 to 51*.

Subpart 2 of Part 3: reclamation of rivers

This subpart classes reclamation of the bed of a river as a discretionary activity.

Subpart 3 of Part 3: passage of fish affected by structures

This subpart relates to the effects on the passage of fish of the placement, use, alteration, extension, or reconstruction of any of the following structures in, on, over, or under the bed of any river or connected area (a **relevant activity**):

- a culvert:
- a weir:
- a flap gate (whether passive or non-passive):
- a dam:
- a ford.

The subpart does not apply to existing structures or customary weirs.

Regulations 61 to 68 require information about a structure, and its effect on the passage of fish, to be collected and provided to the regional council.

Regulation 69 applies to a relevant activity that requires a resource consent. The consent must impose conditions about monitoring and maintenance of the structure.

Regulations 70 to 73 class relevant activities relating to culverts or weirs as permitted or discretionary activities, depending on whether they comply with certain conditions.

Regulation 74 classes a relevant activity relating to a passive flap gate as a non-complying activity if it complies with certain conditions.

Part 4: Local authorities may charge for monitoring permitted activities

This Part enables a local authority to charge for monitoring permitted activities. These charges may be fixed in accordance with section 36 of the Resource Management Act 1991.

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement on 6 May 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- Action for healthy waterways part 1: summary and overall impacts: <https://www.mfe.govt.nz/regulatory-impact-statements/action-for-healthy-waterways-part-1>
- Action for healthy waterways part 2: detailed analysis: <https://www.mfe.govt.nz/regulatory-impact-statements/action-for-healthy-waterways-part-11>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 5 August 2020.

These regulations are administered by the Ministry for the Environment.