

Proposed National Environmental Standards for Freshwater

Proposals for consultation September 2019

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Part 1 Preliminaries

1 General definitions

(1) In this Standard:

Act means the Resource Management Act 1991

commencement date means the date on which this Standard comes into force

(2) Terms defined in the National Policy Statement for Freshwater Management 2019 and used in this Standard have the meanings in that national policy statement, unless otherwise specified.

2 Stringency

(1) Regional councils may include rules in their plans that set rules that are more stringent than those required by this Standard.

(2) Any rule in a regional plan that is more stringent than these Standards prevails over these Standards.

(3) [placeholder: NESPF prevails over wetland rules pending review]

3 Charging for monitoring

A local authority may charge for monitoring any activity identified in this Standard as a permitted activity.

Part 2 Wetlands, rivers, and fish passage

Subpart 1 – Wetlands

4 Definitions for subpart 1

In this subpart:

constructed wetland means a wetland constructed by artificial means that:

- a) supports an ecosystem of plants that are suited to wet conditions; and
- b) is constructed for a specific purpose in a place where a natural wetland does not already exist

existing hydro scheme means any hydro-electricity generating scheme that is operating on or before the commencement date

nationally significant infrastructure means all or any of the following:

- a) State highways;
- b) the national grid electricity transmission network;
- c) national renewable electricity generation facilities that connect with the national grid, other than the facilities of existing hydro schemes;
- d) major gas or oil pipeline services (such as the pipeline from Marsden Point to Wiri, and high pressure gas transmission pipelines from Taranaki);
- e) any railway (as defined in the Railways Act 2005);
- f) rapid transit;

- g) airports that have a runway used for regular air transport services by aeroplanes that have a seating configuration of more than 30 passenger seats;
- h) commercial ports (as defined in Part A(6) of Schedule 1 of the Civil Defence Emergency Management Act 2002)

natural wetland means a wetland as defined in the Act (regardless of whether it is dominated by indigenous or exotic vegetation, and including coastal wetlands), except that it does not include:

- a) wet pasture or paddocks where water temporarily ponds after rain in places dominated by pasture, or that contain patches of exotic sedge or rush species; or
- b) constructed wetlands; or
- c) geothermal wetlands

public flood control or drainage means work carried out:

- a) for flood control or flood protection purposes, by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or
- b) for the purpose of drainage works by drainage districts, under the Land Drainage Act 1908

standard wetland monitoring obligation has the meaning in clause 5

vegetation destruction means destroying any significant indigenous vegetation.

5 Standard wetland monitoring obligation

(1) If the standard wetland monitoring obligation is a condition of any consent granted for the purpose of this Standard, the holder of the consent must:

- a) monitor the condition of the wetland (in terms of, at least, extent, vegetation, hydrology, and nutrients); and
- b) provide the results of monitoring to the consent authority at least annually, or in accordance with any monitoring plan; and
- c) advise the regional council if the monitoring indicates a decline in the ecological condition of the wetland.

(2) The advice required by subclause (1)(c) must be given by phone immediately (or as soon as practicable), and be confirmed in writing within 20 working days after the phone advice.

(3) The written confirmation must include a description of the scale of the decline and any known, actual, or likely reasons for it.

6 Standard conditions for nationally significant infrastructure

Any consent granted for activities referred to in this subpart that relate to new or existing nationally significant infrastructure must include at least the following conditions:

- a) to the extent that adverse effects on a natural wetland cannot be avoided, remedied, or mitigated, any residual adverse effects on the natural wetlands must be offset to achieve a net gain;
- b) the person undertaking the activity is subject to the standard wetland monitoring condition for the duration of the consent;
- c) the person undertaking the activity must implement best practice erosion and sediment control measures for the duration of land disturbance, and these must be installed before the start of the land disturbance and be maintained until the site is stabilised against erosion.

Vegetation destruction

7 Vegetation destruction – discretionary activities

Vegetation destruction carried out in, or within 10 m of, any part of a natural wetland is a discretionary activity if it is carried out:

- a) for the purpose of restoring or maintaining the natural wetland; or
- b) for education or recreation purposes (including the construction and maintenance of structures such as boardwalks and signage that are constructed for educational or recreational purposes); or
- c) for the purpose of maintaining or meeting the operational needs of an existing hydro scheme; or
- d) for public flood control or drainage; or
- e) for the purpose of building, maintaining, or operating any new or existing nationally significant infrastructure.

8 Vegetation destruction – non-complying activity

Vegetation destruction in, or within 10 m of, any part of a natural wetland is a non-complying activity if it is carried out for any purpose other than a purpose identified in clause 7.

Earth disturbance

9 Earth disturbance – meaning

In clauses 9 to 14:

earth disturbance means the disturbance of earth (including soil, clay, sand, rock, and peat),:

- a) including by moving, removing, placing, blading, cutting, excavating, cultivating, filling, excavating, or gardening it; but
- b) not including disturbance in the course of:
 - i. planting indigenous plants for restoration purposes; or
 - ii. installing fenceposts; or
 - iii. removing pest or weed vegetation using hand-held tools.

earth disturbance for drainage means earth disturbance that involves making new drainage ditches or deepening existing drainage ditches

general earth disturbance means earth disturbance that is not earth disturbance for drainage.

10 General earth disturbance – discretionary activity

(1) Engaging in general earth disturbance in, or within 10 m of, any part of a natural wetland is a discretionary activity if it is undertaken:

- a) for the purpose of restoring or maintaining the natural wetland; or
- b) for education or recreation purposes (including the construction and maintenance of structures such as boardwalks and signage that are constructed for educational or recreational purposes); or
- c) for the purpose of maintaining or meeting the operational needs of an existing hydro scheme; or
- d) for the purpose of building, maintaining, or operating any new or existing nationally significant infrastructure.

(2) Engaging in general earth disturbance in, or within 10 m of, any part of a natural wetland for the purpose of public flood control or drainage is a discretionary activity if the work will:

- a) result in a greater than 0.1 m change beyond the natural wetland’s annual median water level; and
- b) cause changes in the natural wetland’s seasonal (summer to winter) water level fluctuations (minimum or maximum water levels) that have a detrimental effect on the extent, ecological quality (type and diversity of aquatic plant and animal communities) or functioning of the natural wetland.

(3) Any resource consent granted for general earth disturbance must include at least the condition that the disturbance is limited to the minimum necessary to do the work.

11 General earth disturbance – non-complying activity

Engaging in general earth disturbance in, or within 10 m of, any part of a natural wetland is a non-complying activity if the work:

- a) results in the reclamation of land, or infilling, or damage to or destruction of the natural wetland’s natural hydrological regime, form, function, ecosystem services, amenity values, or ecological values; and
- b) is done for any purpose other than a purpose described in clause 10(1) or (2).

12 Earth disturbance for drainage – discretionary activities

(1) Engaging in earth disturbance for drainage in or within 100 m of any part of a natural wetland is a discretionary activity if it is undertaken for the purpose of restoring the natural wetland to its natural hydrological regime.

(2) Any resource consent granted for general earth disturbance for the purpose of restoring a natural wetland to its natural hydrological regime must include at least the following conditions:

- a) a qualified wetland ecologist and hydrologist must establish the natural hydrological regime of the natural wetland;
- b) the person undertaking the activity is subject to the standard wetland monitoring obligation for the duration of the consent;
- c) best practice erosion and sediment control measures must be implemented for the duration of the land disturbance, and those measures must be installed before the start of the land disturbance and are maintained until the site is stabilised against erosion.

(3) Engaging in earth disturbance for drainage in or within 100 m of any part of a natural wetland is a discretionary activity if it is undertaken:

- a) for:
 - i. public flood control or drainage; or
 - ii. building, maintaining, or operating any new or existing nationally significant infrastructure; and
- b) the work will:
 - i. result in a greater than 0.1 m change beyond the natural wetland’s annual median water level; and
 - ii. cause changes in the natural wetland’s seasonal (summer to winter) water level fluctuations (minimum or maximum water levels) that have a detrimental effect on the extent, ecological quality (type and diversity of aquatic plant and animal communities) or functioning of the natural wetland.

13 Earth disturbance for drainage – non-complying activity

Engaging in earth disturbance for drainage within 100 m of any part of a natural wetland is a non-complying activity if:

- a) the work is done for anything other than:
 - i. restoring the natural wetland to its natural hydrological regime; or
 - ii. public flood control or drainage; or
 - iii. building, maintaining, or operating any new or existing nationally significant infrastructure; and
- b) the work will:
 - i. result in a greater than 0.1 m change beyond the natural wetland’s annual median water level; and
 - ii. cause changes in the natural wetland’s seasonal (summer to winter) water level fluctuations (minimum or maximum water levels) that have a detrimental effect on the extent, ecological quality (type and diversity of aquatic plant and animal communities) or functioning of the natural wetland.

14 Earth disturbance for drainage – prohibited activity

Engaging in earth disturbance for drainage in any part of a natural wetland is a prohibited activity if the work is done for any purpose other than:

- a) restoring the natural wetland to its natural hydrological regime; or
- b) public flood control or drainage; or
- c) building, maintaining, or operating any new or existing nationally significant infrastructure.

Water take activities

15 Water take activities – meaning

In clauses 16 and 17, **water take activities** means activities such as taking, using, damming, or diverting water that:

- a) are not earth disturbance or vegetation destruction; but
- b) result in a change to the water level of a natural wetland.

16 Water take activities – discretionary activity

(1) A water take activity is a discretionary activity if it is undertaken:

- a) for the purpose of education or recreation (including the construction and maintenance of structures such as boardwalks and signage that are constructed for educational or recreational purposes), and the change in water level is temporary; or
- b) for the purpose of maintaining or meeting the operational needs of an existing hydro scheme.

(2) A water take activity is a discretionary activity if it is done for the purpose of restoring the natural wetland to its natural hydrological state.

(3) Any resource consent granted for a water take activity for the purpose of restoring a natural wetland to its natural hydrological state must include the following conditions:

- a) a qualified wetland ecologist and hydrologist must establish the natural hydrological regime of the natural wetland;
- b) the person undertaking the activity is subject to the standard wetland monitoring obligation for the duration of the consent.

(4) A water take activity is a discretionary activity if:

- a) the work is done for:

- i. public flood control or drainage; or
 - ii. building, maintaining, or operating any new or existing nationally significant infrastructure; and
- b) the work will:
- i. result in a greater than 0.1 m change beyond the natural wetland’s annual median water level; and
 - ii. cause changes in the natural wetland’s seasonal (summer to winter) water level fluctuations (minimum or maximum water levels) that have a detrimental effect on the extent, ecological quality (type and diversity of aquatic plant and animal communities) or functioning of the natural wetland.

17 Water take activities – non-complying activity

A water take activity is a non-complying activity if:

- a) it is not a discretionary activity; and
- b) the work will:
 - i. result in a greater than 0.1 m change beyond the natural wetland’s annual median water level; and
 - ii. cause changes in the natural wetland’s seasonal (summer to winter) water level fluctuations (minimum or maximum water levels) that have a detrimental effect on the extent, ecological quality (type and diversity of aquatic plant and animal communities) or functioning of the natural wetland.

Subpart 2 – River bed infilling

18 Infilling bed of river

Discretionary activity

- (1) The infilling of the bed of a river is a discretionary activity if it is part of an activity:
 - a) designed to restore or enhance the natural values of the stream or of any adjacent or associated ecosystem; or
 - b) done for the purpose of building, maintaining, or operating new or existing nationally significant infrastructure; or
 - c) required for the purposes of flood prevention or erosion control; or
 - d) for which there are no practical alternative methods of enabling the activity to take place.
- (2) Any resource consent granted for the discretionary activity must include at least the following conditions:
 - a) to the extent that the adverse effects cannot be avoided, remedied, mitigated, any residual adverse effects on the river must be offset to achieve a no net loss; and
 - b) the person undertaking the activity must:
 - i. monitor the condition of the river for the duration of the consent; and
 - ii. inform the consent authority if the monitoring demonstrates that the ecological condition of the river is declining.

Non-complying activity

- (3) Infilling the bed of a river is a non-complying activity in any other case.

Subpart 3 – Fish passage

19 Application of subpart 3

- (1) This subpart applies only in respect of structures constructed after the commencement date.
- (2) Clauses 21 and 22 (about culverts and weirs) do not apply in respect of any river identified by the relevant regional council as one where fish passage for undesirable fish species is to be impeded (in accordance with the requirements of the National Policy Statement for Freshwater Management 2019), except that any person constructing a culvert or weir on such a river must provide the following to the relevant regional council within 20 working days of the construction being completed:
 - a) the standard fish passage information; and
 - b) for culverts, information on at least the type or shape of culvert (e.g. pipe, box, arch), material, height, width, length, drop height, slope, culvert substrate, and alignment; and
 - c) for weirs, information on at least the type of weir, crest shape, width, slope, height, presence of wetted margins, material, backwater distance, and substrate.

20 Definitions for subpart 3

In this subpart:

bankfull discharge means the discharge that fills a stable channel to the elevation of the active floodplain

bankfull width means the width of the river channel at the bankfull discharge

culvert means:

- a) a pipe or box structure that conveys stormwater flow; or
- b) the entire structure used to channel a water body

culvert span means the width of the culvert at the point it intersects with the stream bed

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

maximum allowable water velocity is a measurement defined by the requirements of the weakest species or weakest life stage of a species

passive flap gate means a flap gate that opens due to a positive head differential on the upstream side, and closes due to a positive head differential on the downstream side, but is not controlled by any powered (e.g. electric or hydraulic) automated gate system

standard fish passage structure information means the following information about an in-stream structure:

- a) location (Easting and Northing);
- b) upstream- and downstream-facing photograph(s) of the completed structure sufficient to allow evaluation of the structure's maintenance requirements over time and likelihood of fish passage impedence;
- c) wetted width and bankfull width of the stream prior to works;
- d) type of structure (i.e. culvert, ford, weir, dam, or flap gate).

21 Culverts

Permitted Activity

- (1) The construction of a culvert that is fixed in or on the bed of a river is a permitted activity, provided the following conditions for fish passage are met:
- a) the culvert complies with all relevant rules in the relevant regional plan;
 - b) the culvert provides for the same fish passage as exists naturally in the area of river bed it occupies;
 - c) the mean cross-sectional water velocity in the culvert is equal to or less than the mean cross-sectional water velocity found in immediately adjoining stream reaches; and
 - d) the culvert span is:
 - i. equal to or greater than 1.3 x stream bankfull width for streams with a bankfull width ≤ 3 m; or
 - ii. equal to or greater than 1.2 x stream bankfull width + 0.6 m for streams with a bankfull width > 3 m;
 - e) the culvert is an open bottom culvert or the culvert invert is placed so that a minimum of 25% of the diameter of the culvert is below the level of the river bed;
 - f) the stream bed substrate is present over the full length of the culvert, and it is stable for at least four fifths of the time;
 - g) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris);
 - h) the person constructing the culvert must provide the following to the relevant regional council within 20 working days of construction being completed:
 - i. the standard fish passage structure information;
 - ii. information on at least the type or shape of culvert (e.g. pipe, box, arch), material, height, width, length, drop height, slope, culvert substrate, and alignment.

Discretionary activity

- (2) The construction of a culvert that is fixed in or on the bed of a river that is not a permitted activity is a discretionary activity.
- (3) Any resource consent granted for the discretionary activity must be subject to the following conditions:
- a) the culvert is not contrary to the regional council's objectives for aquatic life (as required by the National Policy Statement for Freshwater Management 2019);
 - b) the person constructing the structure must provide the following to the relevant regional council, within 20 working days of construction being completed:
 - i. the standard fish passage structure information;
 - ii. information on at least the type or shape of culvert (e.g. pipe, box, arch), material, height, width, length, drop height, slope, culvert substrate, and alignment.

22 Weirs

Permitted activity

- (1) The construction of a weir that is fixed in or on the bed of a river is a permitted activity provided the following conditions for fish passage are met:
- a) the weir must comply with all relevant rules in the relevant regional plan;
 - b) the weir provides for the same fish passage as exists naturally in the area of river bed it occupies;
 - c) the weir fall height is less than 4 metres;
 - d) the slope of the weir is:

- i. no steeper than 1:30 for a rock-ramp weir, unless the council has identified that inanga or smelt (and any other weakly-swimming species identified by council) do not require passage;
 - ii. equal to or less than 1:10 for a conventional weir design where fall height is ≤ 1 m;
 - iii. equal to or less than 1:15 for a conventional weir design where fall height is 1-4 m;
- e) roughness elements are present on the weir face, comprising mixed grade rocks of 150-200 mm diameter which are irregularly spaced no more than 90 mm apart to create a hydraulically diverse flow structure across the weir;
- f) the weir has a V-shaped lateral profile, sloping up at the banks and providing a low-flow channel in the centre, with the lateral cross-section slope between 5-10°;
- g) the person constructing the weir must provide the following to the relevant regional council within 20 working days of construction being completed:
 - i. the standard fish passage structure information; and
 - ii. information on at least the type of weir, crest shape, width, slope, height, presence of wetted margins, material, backwater distance, and substrate.

Discretionary activity

(2) If the construction of a weir that is fixed in or on the bed of a river is not a permitted activity, it is a discretionary activity.

(3) Any resource consent granted for the discretionary activity must include a condition requiring the person responsible for the construction of weir to provide the following to the relevant regional council within 20 working days of construction being completed:

- a) the standard fish passage structure information;
- b) information on at least the type of weir, crest shape, width, slope, height, presence of wetted margins, material, backwater distance, and substrate.

23 Passive flap gates

(1) The construction of a passive flap gate is a non-complying activity.

(2) Any resource consent granted for the non-complying activity must be subject to the following conditions:

- a) the passive flap gate must comply with all relevant rules in the relevant regional plan;
- b) the person constructing the structure must provide the following to the relevant regional council, within 20 working days of construction being completed:
 - i. the standard fish passage structure information;
 - ii. at least, the number of flap gates, dimensions, material, and whether any culverts present.

24 Dams, fords, and non-passive flap gates

Every person who constructs a dam, ford, or non-passive flap gate must provide the following to the relevant regional council, within 20 working days of the construction being completed,:

- a) the standard fish passage structure information;
- b) for fords, at least drop height, substrate, width, length, material, presence of any culverts;
- c) for dams, at least height, whether spillway present, whether fish pass present;
- d) for non-passive flap gates, at least the number of flap gates, dimensions, material, and whether any culverts present.

Part 3 Farming

25 Definitions for Part 3

In this Part:

annual forage crop means a crop grazed in situ, including brassicas, and beet and root crops; but not including perennial pasture, short-rotation grass species, and cereal crops

approved farm environment planner means a suitably qualified and experienced person approved under clause 40

approved auditor means a person approved under clause 41

arable farming means farming where the predominant activity is growing any of the following crops for harvest:

- a) grain cereal, legumes, or pulse grain;
- b) herbage seed;
- c) oilseed;
- d) crops grown for seed multiplication;
- e) maize grain, maize silage, cereal silage, and mangels

certified FW-FP means an FW-FP that has been certified by an approved farm environment planner in accordance with clause 40

commercial vegetable production means the commercial production on a horticultural farm of vegetable crops for human consumption

critical source area means a landscape feature such as a gully, swale, or depression that accumulates runoff from adjacent flats and slopes and delivers it to surface water body such as rivers and lakes, artificial waterways, and field tiles

dairy cattle means cattle farmed for milk production, and:

- a) includes unweaned calves of dairy cows, and bulls on the farm whose purpose is mating with dairy cows; but
- b) does not include cattle farmed for beef production or as dairy support.

dairy support means pastoral farming where the animals grazed are dairy cattle not being milked (young animals or mixed-aged cows) that are grazed off the milking platform (ie, the area devoted to feeding dairy cows on a daily basis during the milking season) either temporarily or throughout the year

drainage ditch means any artificial watercourse designed, constructed, or used to drain surface or subsurface water; but does not include any swale (shallow depression) whose primary purpose is to direct surface water flow during heavy rain

effective hectare means the area of a farm on which animals are grazed

enterprise means one or more parcels of land held in single or multiple ownership to support the principle land use, or land on which the principle land use is reliant, which constitutes a single operating unit for the purposes of management

farm means a property, area of land, or enterprise used for pastoral farming, horticultural farming, or arable farming, other than a farm engaged in intensive indoor primary production

farm year means a 12-month period beginning on 1 July in any year and ending on 30 June in the next year (as in, 2018/19 farm year)

FW-FP means the Freshwater Module of a Farm Plan, as provided for in subpart 3 of this Part

horticultural farming means farming where the predominant activity is growing food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply

intensive winter grazing means on-paddock grazing where stock are grazed between May to September (inclusive) on an annual forage crop, regardless of whether supplementary feed is also being fed

low-slope land means land classified as low-slope in [*MfE mapping tool*] (ie, land with an average slope of less than or equal to 5, [7], [10] degrees when measured at the land parcel scale)

pastoral farming means farming where the predominant activity involves the grazing of livestock on a farm

pugging means the process of penetration into soil surface by the hooves of grazing animals in wet conditions, causing direct damage to pasture and soil structure

stockholding area means a permanent or semi-permanent area, covered or uncovered, that is constructed to hold livestock at a stocking density that precludes the maintenance of pasture or vegetative groundcover, and:

- a) includes feedpads, winter pads, standoff pads, loafing pads; but
- b) does not include areas used for animal husbandry purposes, such as stockyards, milking sheds, or woolsheds.

26 Application of Part 3

Nothing in this Part applies to the following:

- a) pastoral farms of less than 20 hectares;
- b) arable farms of less than 20 hectares;
- c) horticultural farms of less than 5 hectares.

Subpart 1 – Livestock control

27 Feedlots

- (1) In this clause, **feedlot** means a stockholding area in which livestock:
 - a) are confined for more than 80 days in a 6-month period; and
 - b) are completely hand-fed or mechanically-fed.
- (2) Use of land for feedlots is a discretionary activity.
- (3) Any resource consent granted for the discretionary activity must include at least the following conditions:
 - a) the base of the feedlot must be sealed to a minimum permeability standard of 10^{-9} metres per second;
 - b) the area must be sited at least 50 m away from waterbodies, water abstraction bores, drainage ditches, and coastal marine areas;

- c) all animal effluent, or water or bedding material containing effluent, must be collected, stored, and disposed of in accordance with regional council regulations or a current discharge permit;
- d) if the consent is granted before the date that is 2 years after the commencement date, the applicant must, by that date, have a certified FW-FP for the farm to which the consent applies.

(4) An application for a resource consent for the discretionary activity made after the date that is 2 years after the commencement date must include a certified FW-FP for the farm to which the application relates.

28 Sacrifice Paddocks

(1) In this clause, **sacrifice paddock** means a paddock used temporarily to hold stock in such a way that the pasture is likely to be severely damaged and will require pasture renovation.

Permitted activity

- (2) Use of land for a sacrifice paddock is a permitted activity if the area:
- a) is sited at least 50 m away from waterbodies, water abstraction bores, drainage ditches, and coastal marine areas; and
 - b) does not include any critical source area.

Discretionary activity

- (3) Use of land for a sacrifice paddock that is not a permitted activity is a discretionary activity.
- (4) Any resource consent for the discretionary activity that is granted before the date that is 2 years after the commencement date must include at least the condition that, by that date, the applicant will have a certified FW-FP for the farm to which the consent applies.
- (5) An application for a resource consent for the discretionary activity made after the date that is 2 years after the commencement date must include a certified FW-FP for the farm to which the application relates.

29 Other stock holding

Restricted discretionary activity

- (1) Holding stock in a stockholding area for more than 30 days in a 12 month period, or for more than 10 consecutive days, is a restricted discretionary activity.
- (2) Any resource consent granted for the restricted discretionary activity must include at least the following conditions:
- a) the base of the stockholding area must be sealed to a minimum permeability standard of 10^{-9} meters per second;
 - b) the area must be sited at least 50 m away from waterbodies, water abstraction bores, drainage ditches, and coastal marine areas;
 - c) all animal effluent, or water or bedding material containing effluent, must be collected, stored, and disposed of in accordance with regional council regulations or a current discharge permit;
 - d) by the date that is 2 years after the commencement date, the applicant must have a certified FW-FP for the farm to which the application relates.

(3) For the purpose of granting a resource consent for the restricted discretionary activity, discretion is reserved over the following:

- a) measures to control run-off and contaminant loss;
- b) timeframes for adoption of mitigation measures;
- c) requirements for compliance monitoring and reporting.

Discretionary activity

(4) Holding stock in a stockholding area for more than 30 days in a 12 month period, or for more than 10 consecutive days, is a discretionary activity if any condition referred to in subclause (3) is not met.

(5) Any resource consent for the discretionary activity that is granted before the date that is 2 years after the commencement date must include at least the condition that, by that date, the applicant will have a certified FW-FP for the farm.

(6) An application for a resource consent for the discretionary activity made after the date that is 2 years after the commencement date must include a certified FW-FP for the farm to which the application relates.

30 Intensive winter grazing

Permitted activity

(1) Intensive winter grazing on a farm is a permitted activity if it complies with the following conditions:

- a) the grazing does not take place on land with a slope equal to or greater than 10 [15] degrees;
- b) the grazing does not take place over more than 30 ha [50 ha] or 5% [10%] (whichever is greater) cumulatively or in one contiguous area of the farm;
- c) any grazing on sloping land takes place progressively downhill from the top of the slope to the bottom of the slope;
- d) stock is not grazed in any critical source area;
- e) a vegetated strip of at least 5 m [20 m] that does not include any annual forage crop species is maintained between the grazed area and any water body or drainage ditch, and all stock are excluded from this strip during the grazing;
- f) the grazed paddock is re-sown within 1 month, or as soon as practicable, after the end of the grazing;
- g) pugging to a depth of more than an average of 20 cm [10 cm] does not occur over more than 50% of the paddock.

Restricted discretionary activity

(2) If intensive winter grazing on a farm is not a permitted activity, it is a restricted discretionary activity if:

- a) the grazing does not meet the requirements of subclause (1); and
- b) in a freshwater management unit to which clause 31 applies, the total area in annual forage crop does not exceed the highest total area in annual forage crop in any farm year between 2013/14 and 2018/19.

(3) For the purpose of granting a resource consent for the restricted discretionary activity, discretion is reserved over the following:

- a) the area of annual forage crop;
- b) methods of grazing management (such as requiring that grazing on sloping land occurs progressively downhill from the top to bottom of the slope);
- c) methods for protecting critical source areas;

- d) provision for vegetated strips to protect waterbodies from stock grazing;
- e) provisions for re-sowing the grazed paddock;
- f) methods for preventing pugging.

(4) Any resource consent for the restricted discretionary activity that is granted before the date that is 2 years after the commencement date must include at least the condition that, by that date, the applicant will have a certified FW-FP for the farm.

(5) An application for a resource consent for the discretionary activity made after the date that is 2 years after the commencement date must include a certified FW-FP for the farm to which the application relates.

Information note

Intensive winter grazing in certain areas that is not a permitted activity or a restricted discretionary activity may be a discretionary activity – see clause 33.

Subpart 2 – Intensification

31 Geographic application of subpart 2

- (1) The requirements of this subpart apply only in freshwater management units where national policy statements for freshwater management have not been fully implemented.
- (2) For the purposes of subclause (1), full implementation by a regional council means, in relation to a freshwater management unit, that:
- a) in relation to the National Policy Statement for Freshwater Management 2014 (as amended 2017), the regional council has:
 - i. defined limits for the defined attributes and included them in rules in the regional plan; and
 - ii. included any required objectives and policies in the regional policy statement or plan; or
 - b) in relation to the National Policy Statement for Freshwater Management 2019, the regional council has:
 - i. defined limits and action plans for the defined attributes and included them in the regional plan; and
 - ii. included any required objectives and policies in the regional policy statement or plan; and
 - iii. published all required action plans.

32 Duration of consents

- (1) Any resource consent granted for the purposes of this subpart on or before 31 December 2030 expires on 31 December 2030, or any earlier date specified in the consent.
- (2) A resource consent granted for the purposes of this subpart after 31 December 2030 must expire within 1 year after the date on which it is granted.

33 Intensive winter grazing within certain areas

- (1) This clause does not apply until 1 January 2021.

Discretionary activity

(2) Intensive winter grazing is a discretionary activity if the total area within a farm in annual forage crop exceeds the highest total area in annual forage crop in any farm year between 2013/14 and 2018/19.

(3) Any resource consent granted for the discretionary activity must include at least the following conditions:

- a) the applicant has a certified FW-FP; and
- b) the FW-FP includes actions to avoid, remedy, or mitigate the adverse effects of the activity's contaminant discharges into freshwater, or into land in circumstances that may result in the contamination entering water; and
- c) the nitrogen, phosphorus, sediment, or microbial pathogen discharges of the farm that will result from the increased land used will not exceed the average discharges of those contaminants from the farm during the farm year 2017/2018.

(4) An application for a resource consent for the discretionary activity must include a certified FW-FP for the farm to which the application relates.

34 Irrigated farming

Permitted activity

(1) An increase in the amount of land used on a farm for irrigated production (other than production from effluent irrigation) is a permitted activity if the increase since the commencement date is 10 ha or less.

Discretionary activity

(2) An increase in the amount of land used on a farm for irrigated production is a discretionary activity if the increase since the commencement date is more than 10 ha.

(3) Any resource consent granted for the discretionary activity must include at least the following conditions:

- a) the applicant has a certified FW-FP; and
- b) the FW-FP includes actions to avoid, remedy, or mitigate the adverse effects of the activity's contaminant discharges into freshwater, or into land in circumstances that may result in the contamination entering water; and
- c) the nitrogen, phosphorus, sediment, or microbial pathogen discharges of the farm that will result from the increased land used for irrigated production will not exceed the average discharges of those contaminants from the farm during the farm year 2017/2018.

(4) An application for a resource consent for the discretionary activity must include a certified FW-FP for the farm to which the application relates.

35 High-risk land use changes

(1) This clause applies to any farm in which any of the following changes, from an **old use** to a **new use**, occur after the commencement date:

- a) land that was used for arable, sheep, deer, or beef farming (old use) is changed to being used for dairy support (new use);
- b) land that was used for arable, sheep, deer, beef, or dairy support farming (old use) is changed to being used for dairy farming (new use);

- c) land that was used for wood vegetation or forestry (old use) changes to any form of pastoral farming (new use).

Permitted activity

(2) A change from an old use to a new use is a permitted activity if, since the commencement date, the total additional amount of land used on the farm over the farm year for a new use is less than 10 hectares.

Discretionary activity

(3) A change from an old use to a new use is a discretionary activity if, since the commencement date, the total additional amount of land used on the farm over the farm year for a new use is 10 hectares or more.

(4) Any resource consent granted for the discretionary activity must include at least the following conditions:

- a) the applicant has a certified FW-FP;
- b) the FW-FP includes actions to avoid, remedy, or mitigate the adverse effects of the activity's contaminant discharges into freshwater, or into land in circumstances that may result in the contamination entering water;
- c) the nitrogen, phosphorus, sediment, or microbial pathogen discharges of the farm that will result from the increased land used will not exceed the average discharges of those contaminants from the farm during the farm year 2017/2018.

(5) An application for a resource consent for the discretionary activity must include a certified FW-FP for the farm to which the application relates.

36 Land use change to commercial vegetable production

Permitted activity

(1) Any change in land use to commercial vegetable growing by a farm since the commencement date is a permitted activity if, following the change, the total area of land in a freshwater management unit that is used by the farm for that purpose does not exceed the greatest total amount used for vegetable growing in that freshwater management unit by the farm in any one farm year between the 2013/14 and 2018/19 farm years.

Discretionary activity

(2) If the total amount of land in a freshwater management unit used by a farm for commercial vegetable production increases by more than the greatest total amount of land used in the freshwater management unit for vegetable growing by the farm in any one year between 2013 and 2018, the change is a discretionary activity.

(3) Any resource consent granted for the discretionary activity must be granted subject to the following conditions:

- a) the applicant has a certified FW-FP;
- b) the FW-FP includes actions to avoid, remedy, or mitigate the adverse effects of the activity's contaminant discharges into freshwater, or into land in circumstances that may result in the contamination entering water;
- c) the nitrogen, phosphorus, sediment, or microbial pathogen discharges of the farm that will result from the increased land used will not exceed the average discharges of those contaminants from the farm over the period 2013 – 2018.

(4) An application for a resource consent for the discretionary must include a certified FW-FP for the farm to which the application relates.

Subpart 3 - Freshwater module of farm plans

37 Who must have FW-FP?

(1) Within 2 years after the commencement date, the following farms that do not already have a certified FW-FP must have a certified FW-FP:

- a) farms used for commercial vegetable production;
- b) farms in the catchments and subcatchments identified in Schedule 1;
- c) farms in the Kaipara catchment that are on highly erodible land.

(2) By 31 December 2025, every other farm to which this Standard applies must have a certified FW-FP.

38 Content of FW-FP

(1) Every FW-FP must include at least the following:

- a) the physical address of the farm;
- b) the legal description of the land;
- c) the farm identifier (if any);
- d) the name, address, and contact details of the land owner;
- e) the contact details of the person responsible for overseeing the implementation of the FW-FP;
- f) reference to every relevant resource consent, along with the date it was granted and the date (if any) on which it expires;
- g) mapping requirements that meet the requirements of subclause (2);
- h) a risk assessment that meets the requirements of subclause (3);
- i) action points that address the risks identified under subclause (3) and meet the requirements of subclause (4);
- j) for farms in the catchments and subcatchments identified in Schedule 1, action points to reduce nitrogen discharges in accordance with subclause (5).

(2) The mapping required in an FW-FP must, whether using maps, aerial photography, or both, clearly show the following:

- a) the boundaries of the property;
- b) the boundaries of the main land management units within the property;
- c) location of soil types;
- d) location of permanent or intermittent rivers, streams, lakes, drainage ditches, ponds, overland flow paths, and wetlands;
- e) the location of source protection zones for human drinking water;
- f) the location of riparian vegetation and fences (including virtual fences) adjacent to waterbodies;
- g) the location on all water bodies where stock access or crossing occurs;
- h) the location of any critical source areas for nutrient loss, soil loss, or both.

(3) The risk assessment part of the FW-FP must identify and assess the risk of contaminant losses from the farm, with consequent impacts on freshwater ecosystem health, associated with any of the following activities carried out on the farm:

- a) land management activities occurring on or near the locations referred to in subclause (2)(d) – (h);
 - b) previous or existing land uses that may be hazardous, such as:
 - i. offal pits and farm dumps;
 - ii. land on which an activity or industry described in the Hazardous Activities and Industries List is being, or has been, undertaken;
 - c) management of erosion-prone land;
 - d) management of soil loss resulting from land disturbance;
 - e) irrigation;
 - f) stock management and exclusion (including assessment of appropriate setbacks), especially near waterbodies, drainage ditches, and riparian margins;
 - g) fertiliser and effluent management;
 - h) management of contaminant loss as a result of land disturbance;
 - i) management of activities required by this Standard to have a FW-FP.
- (4) The action points in an FW-FP must address the risks identified under subclause (3) and set out the actions that the person implementing the FW-FP is undertaking, or will undertake, to avoid, remedy, or mitigate the loss of contaminants, along with timeframes for those actions.
- (5) The action points in an FW-FP must set out the actions (with timeframes where relevant) that the person implementing the FW-FP is undertaking, or will undertake, to avoid, remedy, or mitigate the loss of nitrogen in accordance with:
- a) any relevant plan rule; or
 - b) where there are no relevant plan rules, best practice options appropriate for the farm type, size and operation.

Information note:

Activities and industries described in the Hazardous Activities and Industries List include those involving:

- agrichemicals;
- fertiliser manufacture or bulk storage;
- livestock dip or spray race operations;
- persistent pesticide bulk storage or use;
- pest control;
- storage tanks or drums for fuel, chemicals, or liquid waste.

39 Obligation to provide FW-FP if required

The person who is responsible for an FW-FP must, on request by the relevant regional council, provide a copy of the FW-FP to the council as soon as practicable.

40 Certification of FW-FP

- (1) An FW-FP may only be certified by a farm environment planner approved by the Minister for the Environment and the Minister of Agriculture.
- (2) A person may not be approved as an approved farm environment planner unless he or she has at least the following qualifications and experience:
 - a) 3 years' experience in the management of pastoral, horticultural, or arable farm systems;

- b) Successful completion of relevant training or qualification, and approved completion of requirements of the certification scheme approved by the Minister for the Environment and the Minister of Agriculture.
- (3) An approved farm environment planner may certify an FW-FP only if satisfied that the FW-FP:
- a) accurately identifies risks, as required by clause 38(3); and
 - b) sets out actions that can or will appropriately address those risks; and
 - c) is consistent with the Good Farming Principles as set out in the Good Farming Practice: Action Plan for Water Quality 2018; and
 - d) is consistent with relevant regional policy statements and plans and any relevant strategies and guidance issued by the regional council.
- (4) As soon as practicable after certifying an FW-FP, the approved farm environment planner must notify the relevant regional council of the date on which the FW-FP was certified, using whatever method the council specifies to identify the farm to which the FW-FP relates.

41 Audit of compliance with FW-FP

- (1) Every person responsible for implementing a certified FW-FP must arrange to have their compliance with the FW-FP audited by an approved auditor (who must not be the same person who certified the FW-FP).
- (2) The approved auditor must be a suitably qualified and experienced person approved by the Minister for the Environment and the Minister of Agriculture.
- (3) A person may not be approved as an approved auditor unless he or she has at least the following qualifications and experience:
- a) 3 years' experience in the management of pastoral, horticultural, or arable farm systems;
 - b) Successful completion of relevant training or qualification, and approved completion of requirements of the certification scheme approved by the Minister for the Environment and the Minister of Agriculture;
 - c) is a member of an international standards organisation accredited audit programme or other audit scheme recognised by the Minister for the Environment and the Minister of Agriculture.
- (4) An audit must be conducted within 24 months after the first certification of an FW-FP.
- (5) Thereafter, an audit must be conducted every 2 years, unless the approved auditor is satisfied the environmental performance of the farm is at a level that means the next audit need not take place for 3 years.
- (6) The audit must check and report on:
- a) the accuracy of the information in the FW-FP; and
 - b) whether the proposed actions are likely to be effective in reducing contaminant loss: and
 - c) whether the person responsible for the FW-FP is doing the things outlined in the action points of the FW-FP; and
 - d) any remedial action to be carried out to meet the requirements of this Standard; and
 - e) any updates of the FW-FP required to reflect changing technologies and farm practices.

(7) On completion of an audit, the approved auditor must notify the relevant regional council that the audit has been completed and advise it of the results of the audit and when the next audit is due to be carried out.

Additional proposal for the management of nitrogen in Schedule 1 catchments

Information note:

Subpart 4 below is an alternative proposal for managing nitrogen loss. If adopted, it would replace clauses 38(1)(j) and 38(5).

Subpart 4 - Nitrogen cap

42 Application of subpart 4

(1) This subpart applies only to farms in catchments that are identified in Schedule 1, but only until the National Policy Statement for Freshwater Management 2019 is fully implemented (as defined in clause 31(2)(b)) in the catchment.

(2) Clauses 46 and 47 apply on and from the commencement date, but:

- a) clauses 44 and 45 do not apply until 19 months after the commencement date;
- b) clause 48 does not apply until 18 months after the commencement date.

43 Definitions for subpart 4

In this subpart:

baseline nitrogen loss figure means the nitrogen loss figure calculated for the purposes of clause 47

nitrogen loss figure means the amount of nitrogen lost from the whole of a farm by leaching from farming activities, expressed in kilograms per hectare per year

Overseer means, at any time, the latest version of the proprietary software (OverseerFM) nutrient budget model used by applying the Best Practice Data Input Standards 2016

Overseer modeller means:

- a) a nutrient manager certified under the Nutrient Manager Adviser Certification Programme; or
- b) in respect of any farm, a suitably qualified person approved by the regional council in which the farm is located

threshold value means the value calculated by a regional council for the purposes of clause 47.

44 Controlled activity

(1) Low-slope pastoral farming and all dairy farming is a controlled activity if, at any time, the nitrogen loss figure for the farm exceeds the threshold value for the catchment or subcatchment in which the farm is located.

(2) For the purpose of granting a resource consent for the controlled activity, the matter over which control is reserved is nitrogen loss.

(3) An application for a resource consent for the purposes of this clause will not be publicly or limited notified.

(4) A resource consent granted for the controlled activity must include at least the following conditions:

- a) the farm must have a certified FW-FP that includes actions that will, within 5 years, reduce the farm's nitrogen loss by the difference (expressed as a percentage) between:
 - i. the farm's baseline nitrogen loss figure; and
 - ii. the threshold values for the catchment in which the farm is located;
- b) by 30 September in each year the farmer must provide the relevant local authority with:
 - i. an Overseer output file for the previous farm year, certified by an Overseer modeller; and
 - ii. documentation certified by an approved auditor that shows whether the farmer is complying with the FW-FP as it relates to reducing nitrogen loss;
- c) within 3 years after the granting of the consent, the farmer must provide evidence to the relevant regional council to show that nitrogen loss from the farm has been reduced by at least 50% of the figure referred to in (a) above;
- d) the consent expires on a specified date not later than 5 years after the date it is granted.

45 Discretionary activity

(1) Low-slope pastoral farming and all dairy farming is a discretionary activity if, at any time,:

- a) the nitrogen loss figure for the farm exceeds the threshold value for the catchment in which the farm is located; and
- b) the farm either does not have a certified FW-FP, or it has a certified FW-FP but it does not include actions that will, within 5 years, reduce the farm's nitrogen loss by the difference (expressed as a percentage) between:
 - i. the farm's baseline nitrogen loss figure; and
 - ii. the threshold value for the catchment in which the farm is located.

(2) Any resource consent granted for the discretionary activity must include at least the following conditions:

- a) the farm must have a certified FW-FP that includes actions that will reduce the farm's nitrogen loss by a specified percentage over 5 years, using best practicable options;
- b) by 30 September in each year the farmer must provide the relevant local authority with:
 - i. an Overseer output file for the previous farm year, certified by an Overseer modeller; and
 - ii. documentation certified by an approved auditor that shows whether the farmer is complying with the FW-FP as it relates to reducing nitrogen loss;
- c) within 3 years after the granting of the consent, the farmer must provide evidence to the relevant regional council to show that nitrogen loss from the farm has been reduced by at least 50% of the figure referred to in (a) above;
- d) the consent expires on a specified date not later than 5 years after the date it is granted.

46 Requirement to provide baseline nitrogen loss figure

(1) Every farmer of a dairy farm or a low-slope pastoral farm (that is not a dairy farm) must provide the nitrogen loss figure for the farm to the relevant regional council:

- a) *in the form of an electronic Overseer output file certified as accurate by an Overseer modeller; and*
- b) *within:*
 - i. *for dairy farms, 6 months after the commencement date; and*
 - ii. *for low-slope pastoral farms (other than dairy farms), 12 months after the commencement date.*

- (2) *The nitrogen loss figure must be calculated over a farm year and must be:*
- a) *the higher of the figures calculated in the 2017/18 farm year or the 2018/19 farm year; or*
 - b) *if those figures are not available, a figure representing nitrogen loss for the current year.*

47 Regional council to calculate threshold values

(1) *Every regional council with farms to which this subpart applies must calculate a threshold value for each catchment or subcatchment to which this subpart applies, as at 7 months after the commencement date, based on the nitrogen loss figures supplied under clause 46(1)(b)(i) by dairy farmers in each catchment.*

(2) *The threshold value for a catchment or subcatchment must be set as the highest nitrogen loss figure in the bottom [70 – 90%] of the nitrogen loss figures supplied under clause 46(1)(b)(i), when the nitrogen loss figures are ranked in ascending order.*

48 Requirement to provide Overseer output files

Every farmer with a low-slope pastoral farm that is not required by clauses 44 or 45 to have a resource consent must provide annually to the relevant regional council an Overseer output file, certified by an Overseer modeller, of their farming activities for the previous farm year.

Schedule 1

Catchment name	Region
Taharua River	Hawke's Bay
Waipao Stream	Northland
Mataura River	Southland
Oreti River	Southland
Waimatuku Stream	Southland
Aparima River	Southland
Waihopai River	Southland
Waingongoro River	Taranaki
Motupipi River	Tasman Region
Piako River	Waikato Region
Waihou River	Waikato Region
Parkvale Stream	Wellington
Upper Rangitaiki and Otangimoana Rivers (upstream of their confluence only)	Bay of Plenty