



TO

**Ministry for the Environment & Ministry for
Primary Industries**

ON THE

**Managing our Wetlands: Discussion Document
on Proposed Changes to the Wetland
Regulations.**

BY

Beef + Lamb New Zealand Ltd

Introduction

Beef and Lamb New Zealand (B+LNZ) welcomes the opportunity to provide feedback on the Ministry for the Environment's "Managing our Wetlands: Discussion Document on Proposed Changes to the Wetland Regulations".

B+LNZ is an industry-good body funded under the Commodity Levies Act through a levy paid by producers on all cattle and sheep slaughtered in New Zealand. It is the organisation mandated by sheep and beef cattle farmers to speak on their behalf.

The sheep and beef industry is diverse, adaptable and very resilient. We have continually made eco-efficiency gains in how red meat is produced. Collectively sheep and beef farmers have maintained meat production, while decreasing the total number of animals farmed and their environmental footprint.

Our farmers have also protected significant areas of native biodiversity and are stewards of the second largest estate of native bush, only exceeded by the Crown. This has been done in the context of losing some of their most productive land to other land uses (a total of four million hectares over 30 years). Sheep and beef farmers are proud kaitiaki of the land and, while recognising more can still be done, are proud of their sector's sustainability and environmental integrity.

B+LNZ's vision is 'Sustainable and profitable farmers, thriving rural communities, valued by New Zealanders'. An important part of B+LNZ's role is investing in building capability and capacity to support a vibrant, resilient, and profitable sector based around thriving communities. Protecting and enhancing New Zealand's natural capital and economic opportunities through a holistic approach to environmental management is fundamental to the sustainability of the sector and to New Zealand's wellbeing for current and future generations.

We believe that policy and implementation pathways should enable and empower individuals and communities to build resilience across all their wellbeings¹. Policy approaches and pathways need to provide for clear, practical, and time-bound outcomes that provide business and community certainty. They must also be considerate of the pressures their intended audience is facing and what additional change, or the threat of change, could mean.

Regulatory requirements must also be commensurate with the impact of the particular activity, farming system, or land use that the provisions apply to, and rules and standards need to be effects-based, equitable across land uses and farming systems, and provide accountability for contaminants.

Our farmers recognise the important ecological role wetlands can have within their catchment. This includes the provision of multiple ecosystem services or nature-based solutions including; contaminant filtration and transformation (especially nitrogen but also phosphorus, sediment and bacteria), sediment settling, habitat provision, recreation, and potential carbon removals. There is a need to ensure that these values can be protected and ensure that regulatory requirements reflect the true presence and risks of contaminant losses, risk of declining biodiversity, as well as lost provision for emissions management.

We would welcome the opportunity to discuss this feedback and any further changes to the regulations, alongside the further refinement of the wetland related regulation and associated guidance material. B+LNZ feedback on this document, and others emphasizes the continued importance on working in partnership with sector groups and others as further detail is developed.

B+LNZ considers that the proposed changes to the wetland regulations are positive. We support the dual purpose of the review:

1. To ensure only those areas intended are captured by the regulations and to better provide for restoration, biosecurity and maintenance.

¹ According to the NZ Living Standards framework, 'wellbeings' are the different ways that one can measure the 'capability of people to live lives that they have reason to value.' For more information about the definitions of 'wellbeing' in New Zealand, please read https://www.landcareresearch.co.nz/uploads/public/Publications/Working-papers-and-reports/LC3901_TechnicalReport.pdf

2. To provide a consent pathway for certain activities so that development can occur where necessary, while ensuring no net loss of natural wetland extent or values occurs.

We suggest a third objective is important to include:

3. To enable and encourage wetland restoration, including maintenance.

It is critical that mechanisms for wetland identification, restoration and maintenance enable these benefits. The success of regulatory mechanisms in driving the right behaviour depends on the robustness of tools for natural wetland identification and recognition that many wetlands occur within productive landscapes. Given wetlands multiple benefits and values, it is also important for their management to be integrated across environmental 'domains' especially Freshwater, Biodiversity, and Climate Change adaptation.

Our feedback is in two parts and focuses on two parts of the discussion document:

Part I: Definition of 'natural wetland'

Part II: Better provision for restoration, maintenance, and biosecurity activities (i.e. consenting pathways)

Part I: Definition of 'natural wetland' (Q1 and Q2)

We appreciate the opportunity to comment on the proposals for how the current assessment of a 'natural wetland' could be amended to ensure only those areas intended are captured by the regulations and to better provide for restoration, biosecurity and maintenance of natural wetlands.

To determine the status of an area as a 'natural wetland', farm operators rely on three steps:

- Step 1: Determine whether the area meets the definition of a wetland within the RMA. If so, continue onto
- Step 2: Determine whether the area meets the definition of a 'natural wetland' in the NPS-FM. If so, continue onto
- Step 3: Determine the extent and presence of a 'natural wetland' using three sets of delineation tools which comprise 4 steps assessing wetland vegetation, hydric soils, and wetland hydrology.

This part of our submission focuses on our assessments of Steps 2 and 3 in this process.

'Natural Wetland Definition' in the NPS-FM

We agree with the intent of changes to the regulations to avoid capturing heavily modified, exotic pasture-dominated wet areas. However, as written the definition is difficult to interpret and may not address issues effectively.

The proposed definition of a 'natural wetland' under the NPS-FM within the discussion document is an area that is not:

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

The use of the terms 'improved' and 'dominated' within the original definition introduced layers of complexity into the definition of pasture not relevant to the purpose of the definition of a natural wetland in the NPS FM 2020. The key aim of the definition, and the wetland delineation tool, should be to ensure efficient assessment of the extent and make-up of a natural wetland area.

B+LNZ agrees with the proposed insertion, '*exotic species associated with pasture*'. However, the wording does not capture other exotic species, such as productive tree species, in wetland assessments. Including these other exotic species would provide a more accurate assessment of wetland character. We question the need to refer to pasture specifically, as opposed to referring to exotic species in general. B+LNZ suggests that the term 'pasture' be removed and reliance should instead be on the proportion of exotic species versus indigenous species present. This would capture all exotic species, including those associated with pasture, as well as other productive species and weeds.

We note that New Zealand's wetland delineation tools do not refer to pasture species at all. For example, if more than 50% of the dominant species in a plant community are associated wetland plants, either obligate or facultative, the site is considered to have hydrophytic vegetation characteristic of a wetland (Berkowitz, J. F. 2011; Environmental Laboratory 1987).

Should the reference to composition of pasture species be retained, then B+LNZ seeks the opportunity to be involved in any development, testing and evaluation of the pasture identification tool. On-farm testing would assist in assessing the rigour and ability to practically apply this tool which would in turn, establish its credibility, providing any issues are addressed.

'Natural Wetland' Delineation in the NPS-FM

B+LNZ has carried out an assessment of the third step in the 'natural wetland' assessment protocol and tested the wetland delineation protocol in terms of its rigour and usability. Having a protocol to delineate wetlands is a necessary approach to determine if areas that do not easily fit inside the

current definition in the NPS-FM are indeed 'natural wetlands'. The recommended 4 step process proposed within the wetland delineation protocol requires the detailed assessment of a potential wetland's presence and extent.

The protocol creates four distinct steps that utilise existing assessment tools designed by experts in their respective fields in New Zealand and build on tested international processes to determine wetland size and state.

However, the four distinct tools currently used to delineate a wetland are disjointed, cannot be found in any one place, are not consistent in approach and have not identified the audience that they are intended for. None of the existing tools proposed for use in the delineation assessment have been built for the purpose of implementing the NPS-F. As a result:

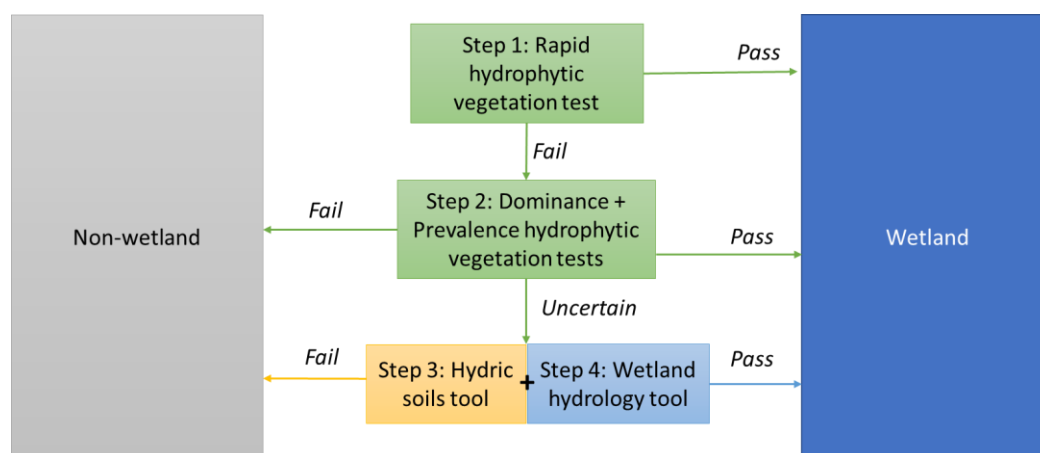


Figure 1 Four steps for delineating wetlands using the hydrophytic vegetation, hydric soils - from Wetland delineation hydrology tool for Aotearoa New Zealand (MfE).

- These tools can be challenging to find online along with the correct recommended guidelines. At this stage some tools are only found in client reports to Meridian Energy or the Tasman District Council and are not linked to any other MfE documents, policies, or other wetland delineation protocols.
- The information requirements in most of these tools are targeted for use by ecologists and unfortunately may not be fit for the wide scale need the NPS-FM presents for landowners and council staff to delineate wetlands. This is especially important to note given that a knowledge of wetland plant identification (based on species names only) is required to progress the first two steps of the delineation protocol. Without vegetation or identification guides for users, the tool is highly inaccessible to many potential users. This means that significant costs and bottlenecks in resourcing these assessments may occur, depending on how many wetlands need to be assessed over what time period.
- Some of these tools have only been tested in one or two regions. This becomes an issue when trying to apply these tools across varied landscapes seen throughout New Zealand.

For these reasons, a fresh start to designing wetland delineation guidance is prudent. A completely new resource would be ideal so that wetland delineation guidance is fit for purpose for use implementing the NPS-FM, and ensure it is:

- Outcome focused
- Risk-based
- Can be used by 'non-experts'
- Is available in one place and/or one tool
- Is scalable and applicable across the country
- Tested or co-designed by end-users

Further clarification is required on:

Scale of assessment

We note that councils must map all natural wetlands greater than 500m² in size. The scale at which this assessment is done will be important in determining whether areas are classified as wetlands or not. This is key to ensure that wetlands needing protection are adequately protected and identified uniformly. Options include grid-based assessment or a practical approach such as assessment at paddock scale. Factors to consider when determining scale requirements could include available mapping resolution. A protocol for the scale assessment could be provided within guidance material to ensure consistency across councils. We seek further opportunity to comment further on this detail.

Minimum requirements

Minimum requirements, i.e.: width and connectivity, are not included as criteria for determining whether areas qualify as 'natural wetlands'. We suggest a minimum width should be considered along with other potential 'minimum' standards that should be put in place to support identification of natural wetland areas.

Constructed and Induced wetlands

We support the recognition of constructed wetlands as being a distinct category of wetland and being exempt from the definition of a 'natural wetland' in part (a) of the definition. However, we believe that all constructed wetlands and induced wetlands should be excluded from the definition of natural wetland regardless of intended purpose so to not create barriers to uptake for farmers wishing to construct wetlands for the purpose of reducing nutrients and sediment entering streams, rivers and lakes.

Induced wetlands are associated with structures that are temporary in nature and therefore the associated wetland will be temporary also. These types of wetlands are not included in the definition of artificial wetlands so they will be included in the definition of natural wetlands.

While these wetlands may provide environmental benefits, subjecting induced wetlands to rules for natural wetlands could provide perverse outcomes. For example, it may be a disincentive to protect waterways with a culvert or build water treatment structures like a detention bund. Detention bunds will often create an induced wetland – but they are designed to be temporary.

B+LNZ's view is that induced wetlands should not be subjected to the same rules as natural wetlands, given their temporary nature and their frequent association with environmental mitigation structures.

Connection to Certified Freshwater Farm Plans

There is a need to clearly outline how the proposals for wetland identification, protection, construction and maintenance connect with proposed requirements under Certified Freshwater Farm Plans. B+LNZ submits that Certified Freshwater Farm Plans should not be required by every farm operator and should focus on the risk assessment and documentation of Good Management Principles and practices rather than the regional or national compliance requirements associated with their farm operation.

Part II: Better provision for restoration, maintenance, and biosecurity activities (Q3-Q7)

Q3: Should maintenance be included in the regulations alongside restoration? Why/why not?

B+LNZ appreciates the need to change the NPS-FW and NES-F to provide for the best possible protection of 'natural wetlands' while ensuring that restoration activities that help people understand and enjoy natural wetlands can continue. We also agree that the provisions as currently worded would be unduly onerous and could likely result in restoration work not being carried out.

Wetland maintenance activities such as removal of weeds, silt and blockages are important for continued wetland health and functioning. Wetland maintenance activities are an integral part of ensuring restoration efforts continue to provide ecosystem, nutrient attenuation, and other benefits. For this reason, B+LNZ supports the inclusion of maintenance activities alongside restoration to enable farmers to undertake these important activities.

Q4: Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?

B+LNZ supports a permitted activity status for removal of all exotic species in and around 'natural wetland' areas. However, we are concerned that the current standards are overly onerous given the relatively low risk of environmental effects resulting from the removal of exotic species.

For example, missing of the three month 'deadline' for re-vegetating bare ground could trigger the need for a consent under these regulations. These potential permitted activity triggers could result in perverse outcomes where wetland restoration or management does not occur effectively given the need to apply for resource consent for a non-complying activity.

B+LNZ seeks the opportunity to work with officials and other technical experts to refine Section 55 of the NES-F 2020. This could include the addition of alternative permitted activity pathway where restoration, management and enhancement of wetlands can occur provided:

1. Listed permitted activity conditions are met, or;
2. A wetland management plan is provided that achieves the equivalent of the listed permitted activity conditions or
3. Consent is obtained.

This approach would provide a more enabling pathway and would not be as onerous as the Assessment of Environmental Effects style approach currently set out under clause 55. It would be similar to the proposed Intensive Winter Grazing management plan (see our submission on these proposals on our website). Regardless of the option chosen, further consideration needs to be given to simplification of these conditions commensurate with the scale and scope of the risk that their activities could pose.

Q5: Should activities be allowed that are necessary to implement regional pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?

Yes, B+LNZ agrees that these activities should be enabled through a permitted consented pathway, given their benefits to indigenous biodiversity values. We suggest the actions undertaken to implement regional pest management plans and biosecurity objectives should also be subject to good management principles and practices to minimise any adverse effects of these activities. These activities could be combined with the NES framework for the restoration, management and enhancement activities above.

Q6: Should restoration and maintenance of a 'natural wetlands' be made a permitted activity, if it is undertaken in accordance with a council-approved wetland management strategy? Why/why not?

Yes, allowing for restoration and maintenance activities that comply with a wetland management strategy would enable a more integrated approach to wetland management. This would especially provide for wetland management activities that occur beyond single paddock scales and that could have catchment scale benefits. However, terming this region-wide document a wetland management strategy may be off-putting for some farmers. Another name such as a 'wetland action plan' with associated guidance/flow charts may make these tools more accessible to farmers.

Q7: Should weed clearance using hand-held tools be a permitted activity? Why/why not?

Yes, B+LNZ agrees that this would be appropriate as weed clearance using hand-held tools would be expected to generally have *de minimis* effects on the environment. As discussed above, it is our view that all activities associated with wetland restoration and maintenance should be permitted, providing easy to understand good practices are followed.

Recommendations:

1. Amend currently drafted wording from:

... a wetland (as defined in the Act [RMA]) that is not:

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

To

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

Alternatively:

-Delete 'improved' as proposed in the discussion document.

-Retain insertion of 'exotic species associated with pasture'.

2. Seek technical and farmer input into the criteria used for the determination of natural wetlands. Beef + Lamb seeks the opportunity to be part of these discussions.
3. Seek co-development of a new, accessible and understandable wetland assessment/delineation tool. This would involve the amendment or adjustment of the proposed 'wetland' delineation tool to ensure effective rigour and useability.
4. Amend the constructed wetland definition for clarity and to exclude induced wetlands from regulations:
 - a. *"Induced wetlands and wWetlands constructed by artificial means, both new and existing ('induced and constructed wetlands'), are excluded from the NPS-FM definition of a 'natural wetland'. While constructed wetlands may develop values over time and provide ecosystem services, it is not the intent of the NPS-FM or Freshwater NES to regulate activities that affect constructed wetlands or induced wetlands".*

References

Berkowitz, J. F. 2011. Recent advances in wetland delineation - implications and impact of regionalization. *Wetlands* 39(3):593-601

Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual. Technical Report Y-87-1. Vicksburg, MS: U.S. Army Engineer Waterways Experiment Station.
(<http://www.wetlands.com/regs/tlpge02e.html>)