



TO

Ministry for the Environment

ON THE

Exposure draft of proposed changes to the NPS-FM and NES-F (including wetland regulations).

BY

Beef + Lamb New Zealand Ltd

**SUBMISSION ON THE EXPOSURE DRAFT OF PROPOSED
CHANGES TO THE NPS-FM AND NES-F (INCLUDING WETLAND
REGULATIONS):**

TO: Ministry for the Environment

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Executive Summary

Beef and Lamb New Zealand (B+LNZ) welcomes the opportunity to provide feedback on the Ministry for the Environment's "Exposure draft of proposed changes to the NPS-FM and NES-F (including wetland regulations)." Our feedback relates to the proposed changes to the wetland regulations in particular.

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.

We appreciate many of the changes that have been proposed to the originally drafted regulations within the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F). However, we have focused our attention to the proposed changes to the wetland related provisions and still have a number of concerns.

Our key concerns relate to how the scale of given wetland is determined, and the treatment of 'induced' wetlands (Amendment 1E). We seek further involvement and guidance on the definition of 'pasture' and the implementation of these requirements, especially the need for a 'restoration plan' to clear non-indigenous vegetation within a natural wetland as a permitted activity. Without clarity of how farmers and councils will need to determine the scale, scope, and extent of a wetland at this time, we cannot fully support Amendment 1.

Our context

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.

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

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, and opportunity to support and protect carbon removals in wetland ecosystems.

Feedback

B+LNZ feedback on the proposed amendments emphasises the continued importance on working in partnership with others. Many of the positive changes we see have been a direct result of Ministry officials' engagement with parties who have a grounded understanding of the implications of the regulations, especially within a landscape and farming context.

Our submission focuses on the proposed amendments to the wetland specific provisions. B+LNZ considers that overall, the proposed changes are positive. We support the purpose of the changes to better define areas intended to be captured by the regulations, to better provide for restoration, biosecurity and maintenance, and to provide a consent pathway for certain activities to continue within natural wetland environments. This submission focuses on the key concerns we retain.

We note that other industry partners have provided additional comments on these and other matters, particularly related to the ability to adequately implement the regulations as related to their intent.

We agree to have this submission published but request that submitters detailed contact information is redacted.

Induced Wetlands

We support the majority of proposals relating to Amendment 1 and more specifically, the recognition of constructed wetlands as being a distinct category of wetland and being exempt from the definition of a 'natural wetland'.

However, we have significant concerns over Amendment 1E, which is intended to clarify what is a 'wetland constructed by artificial means' including clarification that induced wetlands are considered 'natural wetlands' for the purposes of the NPS-FM and the NES-F.

Induced wetlands are those that are not 'deliberately' constructed. These can arise as a result of an overflowing or blocked culvert, for example. While many natural wetlands do have high ecological values, some wetlands, particularly in highly modified landscapes, do not. This would apply to many induced wetlands.

We argue 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.

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 by nature.

B+LNZ is strongly of the view 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. This is aligned with other submitters, including bio researchers, who 'commented

that including induced wetlands as natural wetlands may be contradictory to the usual meaning of 'natural' and include wetlands that would not be captured under the RMA.²

We strongly disagree with officials' conclusions that induced wetlands should be included within the regulations due to their inclusion within the overarching RMA definition. The implications of this proposal and rationale are not adequately communicated in the consultation materials. This has implications in terms of natural justice and we strongly request that induced wetlands are excluded from the definition of 'natural wetland'.

Wetland scale assessment

We are concerned that the lack of a minimum size for wetland identification within areas of pasture has not been included in the regulations. Although we note that some very small wetlands may be important (such as the kettle hole wetlands given as an example in the Ministry's supporting material), the lack of minimum criteria in relation to pasture means that, depending on the scale of assessment multiple very small areas within a paddock could be deemed wetlands. Once deemed a wetland, the stock exclusion and management requirements around these areas could be overly onerous and impractical given the size of the area and the potentially minimal ecological values found within it.

In addition, given the subjection of 'induced' wetlands to the updated regulations, without minimum size requirements, small areas at the bottoms of drains could be considered natural wetlands as well. Although we encourage our farmers to take responsible action for their drain maintenance as part of good farming practices, we do not wish for our farmers to be overburdened with additional requirements if there were higher priority actions to be done as part of their farming business – including meeting emergent regulatory regimes around emissions management and biodiversity protection, for example

We acknowledge that the above issues may be addressed to a degree through the wetland delineation protocol and guidance material, however this is unclear at this time. We seek further content on the wetland delineation protocol (i.e. what defines where a wetland 'stops' and 'starts') and how disputes of assessment will be resolved. We are disappointed that this is not clarified at the time of consultation.

Other wetland comments

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 preserve natural wetlands can continue. We also agree with MfE officials 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.

We support Amendment 9E to enable clearance of non-indigenous vegetation by any means for 'maintenance' and 'restoration' purposes, beyond the area threshold, provided the activities are in a restoration plan.

We agree that the information requirements for a restoration plan, coupled with meeting the general conditions in regulation 55 of the NES-F, is an appropriate threshold for non-hand-held 'maintenance' and 'restoration' activities beyond the area threshold.

² See pg 25 of Managing our wetlands: Report, recommendations and summary of submissions published by the Ministry for the Environment, June 2022. <https://environment.govt.nz/publications/essential-freshwater-amendments-managing-our-wetlands-report-recommendations-and-summary-of-submissions/>

We seek additional guidance from MfE or Councils on the effective completion of a 'restoration plan' in order to enable effective clearance of non-indigenous vegetation within a natural wetland as a permitted activity. This comment relates to Amendment 1F, providing for the protection of threatened species by creating a 'carve-out' where threatened species are known to be present. Ideally, a 'restoration plan' could be integrated with other environmental management requirements such as compliance with the NPS-Indigenous Biodiversity or the incoming Certified Freshwater Farm Plans.

We particularly encourage DOC, and other agencies or authorities, to be very clear in their communications about the knowledge of the presence of a threatened species to landowners where those species are present. The knowledge of these species will support landowners continued stewardship of our native flora and fauna and ensure that can adequately comply with requirements.

Lastly, we particularly support the additional provisions relating to the inclusion of 'water storage' in the definition of 'specified infrastructure' provided for. This will support farmers ability to remain resilient in light of changing climatic and flood conditions.

Conclusions

It is critical that mechanisms for natural wetland identification, restoration and maintenance enable effective natural wetland management. The success of regulatory mechanisms in driving the right actions, however, depends on the robustness of tools for natural wetland identification and recognition that many wetlands naturally occur within productive landscapes.

The inclusion of 'induced' wetlands within the definition of natural wetlands is a step beyond what is required to ensure effective protection of our remaining wetland habitats and should be removed.

We also are highly concerned about that lack of a minimum size threshold to define a 'natural wetland,' especially given the inclusion of 'induced' wetlands within the definition.

We request 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, along with that of others, emphasises the continued importance on working transparently with sector groups and others as further detail is developed. We also recommend that in these discussions farmers/landowners are directly involved so that officials understand the practical implications of these regulations.