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REGIONAL COUNCIL

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22 October 2021

Managing our Wetlands
Ministry for the Environment
P O Box 10362
Wellington 6143

Dear Sir/Madam

Submission on the Discussion Document for NPSFM wetlands definition and NESF Regulations

Thank you for the opportunity to make a submission on the Discussion Document for "*Managing our wetlands: A discussion document on proposed changes to the wetland regulations*".

The West Coast Regional Council's (the Council) submission on the Discussion Document is attached to this letter. The Council has prepared this submission in consultation with our *Poutini Ngai Tahu* partners, under the *Mana Whakahono a Rohe Agreement* with *Poutini Ngai Tahu*.

The Council supports the majority of the changes proposed in the Discussion Document as follows:

- *Natural wetland definition:* changes to exclusion clause (c) will improve its implementation;
- *Wetland restoration, maintenance and biosecurity Regulations:* making these activities within or near a natural wetland permitted, rather than needing a consent, will enable these activities to be undertaken;
- *Additional consenting pathways:* Providing for the specified activities within or near a natural wetland as discretionary activities, rather than prohibiting them, will assist with protecting wetland values through the effects management hierarchy, and this should be extended to other activities.

The Council ***have serious concerns*** about the exclusion clause (a) of the "natural wetland" definition as it currently stands. We seek that the "natural wetland" definition be further amended so that on the West Coast only, the definition ***does not apply*** to induced wetlands.

While the current definition is appropriate in other regions with a lot fewer wetlands, on the West Coast it will result in considerable areas of induced wetlands on private land not being able to be utilised, resulting in significant adverse economic and social impacts.

We also seek an amendment to the wording of the 10 and 100 metre setback buffers around natural wetlands.

Further explanation about the changes we seek is given in the submission.

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Please contact Lillie Sadler if you have any questions regarding the content of our submission or require additional information.

Yours faithfully

Heather Mabin
Acting Chief Executive Officer

West Coast Regional Council comments on "Managing our wetlands: A discussion document on proposed changes to the wetland regulations"

Summary of Feedback

Note that Poutini Ngāi Tahu seek a subsequent amendment to the Council's support for quarrying, landfills, cleanfills, managed fills, and district plan-enabled urban development on the West Coast within or adjoining wetlands to be a discretionary activity. That is, Poutini Ngāi Tahu seek that these activities have non-complying status. This recommendation is under the Discussion Document Section 4 in this Summary, and in the main body of the submission.

Discussion Document Section 2: change to the definition of a 'natural wetland'

We **support** the changes to exclusion (c) in the natural wetland definition as the revised wording is more appropriate to ensure clarity around the interpretation of natural wetlands within pasture areas.

Submission recommendations:

That exclusion clause (a) of the "natural wetland" definition in the NPSFM is amended to add an additional exclusion sub-clause (a)(i) for the West Coast only, see the underlined, italicised text below:

natural wetland means a wetland (as defined in the Act) that is not:

(a)(i) in the West Coast Region only, an induced wetland community formed as a consequence of human activity or non-natural processes;

(a)(ii) in all other Regions, a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or….

That the definition of "natural wetland" in the NPSFM is amended by adding to the current definition: "*A **natural wetland** in the West Coast Region is a wetland that is indigenous-dominated, representative, rare, and created and maintained by natural processes of hydrology*";

or words to this effect.

That a definition of an "induced wetland" is added to the "natural wetland" definition as follows:

*"For the purposes of implementing the natural wetland definition in the West Coast Region only, **induced wetland** is an ecological term meaning wetlands that have been formed by human activities";*

or words to this effect.

Proposed amended definitions:

"natural wetland means a wetland (as defined in the Act) that is not:

(a)(i) in the West Coast Region only, an induced wetland community formed as a consequence of human activity or non-natural processes;

(a)(ii) in all other Regions, a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or

(b) a geothermal wetland; or

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

*"A **natural wetland** in the West Coast Region is a wetland that is indigenous-dominated, representative, rare, and created and maintained by natural processes of hydrology.";*

or words to this effect.

*"For the purposes of implementing the natural wetland definition in the West Coast Region only, **induced wetland** is an ecological term meaning wetlands that have been formed by human activities";*

or words to this effect.

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

We **strongly agree** with the following proposed changes:

- Including maintenance in the Regulations;
- Permitting removal of exotic species as part of restoration and maintenance activities in accordance with the NESF Regulation 55 standard conditions:
- Allow activities that are necessary to implement regional or pest management plans;
- Making restoration and maintenance a permitted activity;
- Making weed clearance using hand-held tools a permitted activity.

Discussion Document Section 4: Additional consenting pathways

Submission recommendations:

That:

a) a consenting pathway be provided in the NESF for other activities not covered in the discussion document, to address specific effects in particular situations through the effects management

hierarchy (avoid, remedy, mitigate, offset, compensate). These include food production, that is, agriculture and horticulture, and forestry;

b) temporary drainage is permitted in the NESF where it needs to be done to protect rare/threatened species, where the wetland is not permanently drained, and its functioning as a wetland is maintained;

c) a consenting pathway be provided in the NESF for temporary drainage, other than in a) above, which does not impact the wetlands' integrity and survival. A definition of temporary drainage should also be added, along the lines that the drainage is modified for a short time, or words to this effect.

We **strongly agree** with providing a discretionary consent pathway in the NESF for quarrying, cleanfill, mining, and district plan-enabled urban development.

We **neither agree or disagree** with having a discretionary consent pathway in the NESF for landfills and managed fills, but note that if effects can be managed, and appropriate effects management results in no biodiversity net loss or a gain, then that results in a long-term benefit.

Submission Recommendation:

Poutini Ngāi Tahu **requests** a subsequent amendment:

In the event that the natural wetland definition is amended in the NPSFM for the West Coast induced wetlands meaning they do not come under the NPSFM and NESF provisions, and only indigenous-dominated, representative, rare wetlands formed by natural hydrological processes are protected; then quarrying, landfills, cleanfills, managed fills, and district plan-enabled urban development on the West Coast within, or adjoining, these rare wetlands are a non-complying activity.

Additional comments re wetland buffers

Submission recommendation:

That the NESF be amended so that the 10m and 100m buffers should only apply if there will be hydrological change potential, and/or other adverse effects on a natural wetland, rather than the buffers being outright 'no-go' areas.

Introduction

This submission provides feedback from the West Coast Regional Council (WCRC or the Council) in response to the Ministry for the Environment's (MfE) "*Managing our wetlands: A discussion document on proposed changes to the wetland regulations (2021)*.

Given the importance of wetlands to our Treaty partners, we have worked with Poutini Ngāi Tahu when preparing our response. We wish to acknowledge that wetlands are regarded as taonga to Poutini Ngāi Tahu. We acknowledge that wetlands have historical, cultural, economic, and spiritual significance. Wetlands can be reservoirs for knowledge, wellbeing, and utilisation. They are mahinga kai (food gathering) sites and provide significant habitats for a range of culturally important plants and animals. They are breeding grounds for native fish and tuna and a large range of culturally significant plants for weaving e.g. harakeke, raupō, toetoe and kuta, and carving e.g. tōtara, kahikatea. Many wetlands also comprise a variety of culturally important medicinal plants for rongoā (Māori medicinal use).

This submission responds to most, but not all, of the questions raised in the discussion document. The Council supports the proposed changes to the restoration, biosecurity and maintenance activities, and providing consent pathways for the activities specified. However, we have concerns about the proposed changes to the "natural inland wetland" definition, including matters that are not covered in the discussion document.

Other changes are sought to additional activities needing a consent pathway, and the 10m and 100m buffers from wetlands.

Due to the technical nature of the proposed changes, Council obtained advice from consultant Ecologist Dr Vaughan Keesing. We agree with Dr Keesing's advice, and this forms the basis of most of our responses.

We note that MfE have released their guidance document on "*Defining 'natural wetlands' and 'natural inland wetlands'*". This guidance document explains how to interpret and apply the current wetlands definition in the NPSFM, and does not comment on the proposed changes to the definition. We therefore make no comments on the guidance document, but still maintain that clarification of the natural wetland definition in 3.21 of the NPSFM, and changes to it, are required in the NPSFM as it is the legally-binding document.

Explanation for the changes we are seeking:

The West Coast Region has the highest proportion of wetlands compared to other regions in New Zealand. The current Freshwater Package definition of a wetland incorporates a lot of wetlands in the West Coast Region and consequently our submission is seeking to differentiate between natural wetlands and induced wetlands.

The higher proportion of wetlands in the West Coast Region compared to the rest of New Zealand reflects both the large amount of rainfall we receive, past land use patterns, and significantly large areas of undeveloped land under the administration of the Department of Conservation (84.17%). The West Coast is the wettest region in New Zealand with average yearly rainfall totals of between 1,746mm to 11,228mm[1]. Rainfall is predicted to increase as a result of climate change. This has the potential for more wetlands to form in the Region in the future, and most of them will be induced.

Historically on the West Coast, lowland areas had kahikatea forest, and there would not have been many inland natural wetlands present. Induced wetlands have occurred by removal of large kahikatea and rimu forests which absorbed water out of the soil, and so no excess water was left to form wetlands. Forest cover would typically dry out the first 20-30 cm of soil. When the forest and tree roots were removed, the groundwater level rose because there were no longer trees acting as a transpiration pump ('drinking' the water), and the groundwater came closer to the surface where there were dips and depressions. These dips in the ground started to accrue wetland plants. They do not necessarily look like they have been induced but they have, and there would not have been a wetland there before the clearance.[2] Appendix 1 shows the pre-human extent of forest and wetlands.

Given the significant number of wetlands on the West Coast we consider it is very important to ensure we can differentiate between natural wetlands and historically induced wetlands when determining which wetlands need to be protected. In its current planning framework, the West Coast has:

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[1] West Coast State of Environment Report 2018 - https://www.wcrc.govt.nz/environment/state-of-environment

[2] Statistics New Zealand website

23	206	229
Schedule 1 wetlands	Schedule 2 wetlands	Total Scheduled wetlands

In regards to land area, this comprises:

	Land area	Schedule 1 & 2 wetland area	Privately owned land area	No. of private landowners
Buller	794,794 ha	4,542 ha	1,027 ha	161
Grey	351,530 ha	2,886 ha	1,618 ha	34
Westland	1,189,489 ha	50,404 ha	1,042 ha	97
West Coast	**2,335,993 ha**	**57,832 ha**	**3,687 ha**	**229**

The Council has been through a publicly notified process for identifying and mapping significant wetlands, and wetlands likely to be significant, and protecting them through objectives, policies and restrictive rules in our Regional Land and Water Plan. A substantial number of these are on public conservation land and already have a level of protection under this land tenure. Additional protection is given by the Regional Plan.

The West Coast region is unique in that there is approximately only 14% of land available for productive use to support the Region's economic and social wellbeing, given the significant amount of conservation land. Not all of the remaining 14% of available land is suitable for use. Some of the proposed changes outlined in the discussion document will reduce the percentage of available land even further.

We understand why 'natural' and 'induced' wetlands need to be recognised and protected nationally, and the current wetlands definition is likely to be appropriate and necessary for other regions that have very few natural wetlands left. We stress that there are significant differences between other regions and the West Coast, which means that for our region alone we are seeking a differentiation between natural and induced wetlands to enable the region to continue to be able to provide for our economic and social wellbeing while continuing to protect our natural wetlands. This key matter is reflected in our following comments seeking additional changes to the "natural wetlands" definition and Regulations for the West Coast region only, as well as our wider comments on the proposed changes outlined in the discussion document.

Feedback

Discussion Document Section 2: change to the definition of a 'natural wetland'

Question 1. Do you agree with the proposed changes to the definition of 'natural wetland'? Why/why not?

Exclusion clause (c):

The Government proposes the following changes to clause (c):

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

We **support** the proposed changes to exclusion (c), as the revised wording is more appropriate to ensure clarity around the interpretation of natural wetlands within pasture areas. A pasture is a community including a range of plants like creeping bent and (creeping) buttercup and other 'wetland' tolerant plants which come with pasture in most cases. These two plant species are prevalent in West Coast pasture due to the rainfall and wetter soils.

Without the proposed change, those pasture plants will continue to trigger the Clarkson dominance and/or prevalence criteria for 'natural wetlands', even when it is clear they are a grazed, managed vegetation community.

Feedback: We **support** the changes to exclusion (c) in the natural wetland definition as the revised wording is more appropriate to ensure clarity around the interpretation of natural wetlands within pasture areas.

Exclusion clause (a)

The Government does not propose any changes to exclusion clause (a) of the natural wetland definition, which is currently worded:

*"**natural wetland** means a wetland (as defined in the Act) that is not:*

"(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or...."

We do not agree with retaining the current wording of exclusion clause (a) for the West Coast region. We seek that the definition be modified so it does not capture induced wetlands, that is, those that are not indigenous-dominated, representative, rare types formed by natural hydrological processes.

There are a great many induced wetland states with sufficient wetland species that could pass the Clarkson tests for a "natural wetland" (vegetation, soil and hydrology (B. R. Clarkson et al. 2021; Ministry for the Environment 2020; Fraser, Singleton, and Clarkson 2018; Ministry for the Environment 2021), that are not a pond or a stormwater treatment wetland. These include, for example, areas that 'back up' behind a track or a culvert, depressions in land cleared of forest that become wet from raised ground water, old sediment retention ponds and other holes dug for purposes, but not a current pond. The exclusion clause (a), that is, types of 'wetland' areas that could be captured as a 'natural wetland' but are not intended to be, needs to better address the range of induced conditions. This can be done by rephrasing the exclusion not as "*a wetland constructed by artificial means*" but as an induced wetland community formed as a consequence of human activity or "non-natural" processes. This change will help to account for those induced features that are not products of natural processes.

Submission Recommendation:

That exclusion clause (a) of the "natural wetland" definition in the NPSFM is amended to add an additional exclusion sub-clause (a)(i) for the West Coast only, see the underlined, italicised text below:

natural wetland means a wetland (as defined in the Act) that is not:

(a)(i) in the West Coast Region only, an induced wetland community formed as a consequence of human activity or non-natural processes;

(a)(ii) in all other Regions, a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or

Question 2. Should anything else be included or excluded from the definition of 'natural wetland'?

Additional definitions for types of wetland to be protected

We seek that an additional definition be added to the "natural wetland" definition explaining what type of wetland should be protected on the West Coast.

The NPSFM should state that the wetland types that should be protected (avoid loss of extent of) as a priority are wetlands in their pre-human form, condition, locations, and extent, that are now rare. This means fully indigenous, representative wetlands formed by natural hydrological processes.

This matter is highly important to managing wetlands on the West Coast, as a considerable proportion of "natural wetlands" that will be identified through the identification, mapping and monitoring process that is required by 3.23 of the NPSFM (and the current natural wetland definition) are likely

to be induced wetlands. Such induced wetlands will be deemed as needing protection from certain activities within and adjoining them, although they are not technically "natural wetlands". For clarification, it would also be useful to add a definition of "induced wetland" as part of the natural wetland definition in the NPSFM.

The improvement of the natural wetland definition and exclusions is crucial for West Coast landowners and Council so that any confusion over whether the definition applies can be better avoided.

Submission Recommendations:

That the definition of "natural wetland" in the NPSFM is amended by adding to the current definition:
*"A **natural wetland** in the West Coast Region is a wetland that is indigenous-dominated, representative, rare, and created and maintained by natural processes of hydrology"*;
or words to this effect.

That a definition of an "induced wetland" is added to the "natural wetland" definition as follows:
*"For the purposes of implementing the natural wetland definition in the West Coast Region only, **induced wetland** is an ecological term meaning wetlands that have been formed by human activities";*
or words to this effect.

Proposed amended definitions:

"natural wetland means a wetland (as defined in the Act) that is not:

(a)(i) in the West Coast Region only, an induced wetland community formed as a consequence of human activity or non-natural processes;

(a)(ii) in all other Regions, a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former 'natural wetland'); or

(b) a geothermal wetland; or

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

*"A **natural wetland** in the West Coast Region is a wetland that is indigenous-dominated, representative, rare, and created and maintained by natural processes of hydrology.";*
or words to this effect.

"For the purposes of implementing the natural wetland definition in the West Coast Region only, ***induced wetland*** *is an ecological term meaning wetlands that have been formed by human activities";*
or words to this effect.

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

Removing the need for consents to undertake restoration actions is supported. Recognition of biosecurity and maintenance actions to enhance and protect natural wetland is supported. Allowing restoration, biosecurity and maintenance activities within, and close to, wetlands will reduce consent costs and delays for Council, DoC, and volunteer groups who undertake pest plant and weed control in the West Coast.

Question 3. Should maintenance be included in the regulations alongside restoration? Why/why not?
Feedback: We **strongly agree** with including maintenance in the regulations because maintenance, especially in small wetlands surrounded by production landscapes, adjoining infrastructure edges or unmaintained weed areas, is a crucial requirement to maintain or gain integrity and viability of the wetland community which we value.

Question 4. Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?
Feedback: We **strongly agree** with permitting removal of exotic species as part of restoration and maintenance activities in accordance with the NESF Regulation 55 standard conditions. This will enable exotic weeds to be removed to help maintain or restore a wetland.

Question 5. Should activities be allowed that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?
Feedback: We **strongly agree** that activities should be allowed that are necessary to implement regional or pest management plans for biosecurity purposes. If such activities are not permitted, Council could be viewed as failing their obligations in terms of weed and pest management. It could also have the perverse outcome of losing wetland values and extent if pest plants take over, meaning that Council would fail to meet their obligations under the NPSFM.

Question 6. Should restoration and maintenance of a 'natural wetland' be made a permitted activity, if it is undertaken in accordance with a council-approved wetland management strategy? Why/why not?

Feedback: We **strongly agree** with making restoration and maintenance a permitted activity. This will remove the time delays, cost, and administration around consent attainment, and removes a disincentive for this activity to be undertaken.

Notwithstanding this, we query how the permitted regulation would work if it is conditional on complying with a council-approved wetland management strategy, as strategies are usually non-regulatory documents.

Question 7. Should weed clearance using-hand-held tools be a permitted activity? Why/why not?

Feedback: We **strongly agree** with making weed clearance using hand-held tools a permitted activity, it is a careful and low risk method.

Discussion Document Section 4: Additional consenting pathways

Consenting pathways are a crucial tool to achieve biodiversity (including wetland) gains through the consent process. Management, restoration and maintenance of wetlands requires substantial funds and long-term ownership. Modern plans and processes such as the recognition of the offset process are now a main leverage tool to require active management and restoration of indigenous habitats where they are adversely affected by development. While there are sceptics (Brown et al. 2013), and in some cases rightly so, the biodiversity gains made over the last 10 years on the West Coast because of a consenting pathway that had mitigation and offset tools, that were sufficiently compliance checked, has been substantial. This includes, for example, the Holcim Quarry Rehabilitation at Cape Foulwind[3], and the Rio Tinto bauxite mining restoration at Barrytown on the West Coast (https://www.sciencedirect.com/science/article/abs/pii/S0341816215300783).

Providing consent pathways for specified activities can contribute to maintaining West Coast communities' social and economic wellbeing, via income, employment, people being able to use their land, and retaining land values, while also protecting significant wetland values.

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[3] Phibbs, H. L., *Assessing the Success of Restoration Plantings at Cape Foulwind, New Zealand.* (M.Sc Forestry Science thesis, University of Canterbury, 2003)

Furthermore, if a natural wetland is identified as being of the 10% of remaining indigenous representative natural wetlands, then prohibition on activities within those features is entirely appropriate. If, however, the process identifies a wide range of wetlands which include exotic-dominated, induced, features and production landscape-regenerated induced wetlands which do not have the functions and values we seek to protect, then the prohibited status is overbearing and causes loss of opportunity through offset.

Feedback: We **strongly support** a consenting pathway being provided for other activities not covered by the discussion document because it provides flexibility to address specific effects in particular situations through the effects management hierarchy (avoid, remedy, mitigate, offset, compensate). The establishment of more activities that have a pathway is immensely sensible and is most likely to result in good biodiversity offset gains, otherwise no gain will occur. If there is no incentive for a landowner to maintain or restore a wetland (via consent conditions), the wetland values may not be maintained or restored. There will be no gain in biodiversity values by protecting a degraded wetland. The wetland could become more degraded by weeds and woody vegetation establishing. On the West Coast, induced wetlands can dry out by woody vegetation such as manuka establishing in them, followed by other woody terrestrial species - known ecologically as succession. This is why sphagnum moss harvesting using good practice techniques is beneficial for maintaining wetlands, as it removes the woody vegetation. The greater the leverage to attain management and restoration by offset requirements, the greater the potential to result in meaningful size and quality of managed wetlands, including on land unlikely to be managed or have restoration of indigenous wetland undertaken.

We note that the NESF currently prohibits drainage within, or within 100 metres of, a wetland. The prohibition should reflect a difference between drainage that is temporary or permanent rather than complete or partial. Complete or partial drainage may be difficult to determine on the West Coast where rainfall can refill a wetland. Prohibiting permanent drainage is appropriate, but a permitted or consenting pathway should be provided in the NESF for temporary drainage which does not impact the wetlands' integrity and survival. For example, there was a situation this year in our Region where a rare skink population was at risk of harm as a nearby creek mouth was blocked and water in the adjoining wetland was backing up and threatening the skinks habitat. The creek mouth could not be opened due to the prohibited wetland drainage regulation. It was luck that the creek mouth opened naturally and lowered the water levels so the skinks were unharmed. This particular wetland continues to exist because it naturally refills with water. The NESF should make temporary drainage permitted

in the NESF where it needs to be done to protect rare/threatened species, where the wetland is not permanently drained, and its functioning as a wetland is maintained.

Submission recommendations:

That:

a) a consenting pathway be provided in the NESF for other activities not covered in the discussion document, to address specific effects in particular situations through the effects management hierarchy (avoid, remedy, mitigate, offset, compensate). These include food production, that is, agriculture and horticulture, and forestry;
b) temporary drainage is permitted in the NESF where it needs to be done to protect rare/threatened species, where the wetland is not permanently drained, and its functioning as a wetland is maintained;
c) a consenting pathway be provided in the NESF for temporary drainage, other than in a) above, which does not impact the wetlands' integrity and survival. A definition of temporary drainage should also be added, along the lines that the drainage is modified for a short time, or words to this effect.

Poutini Ngāi Tahu have advised that they consider a non-complying consent pathway for quarrying, landfills, cleanfills, managed fills, and district plan-enabled urban development within or near natural wetlands is more appropriate. This reflects the high value that Poutini Ngāi Tahu place on natural wetlands on the West Coast.

Submission Recommendation:

Poutini Ngāi Tahu **requests** a subsequent amendment:

In the event that the natural wetland definition is amended in the NPSFM for the West Coast induced wetlands meaning they do not come under the NPSFM and NESF provisions, and only indigenous-dominated, representative, rare wetlands formed by natural hydrological processes are protected; then quarrying, landfills, cleanfills, managed fills, and district plan-enabled urban development on the West Coast within or adjoining these rare wetlands are a non-complying activity.

<u>Consenting pathway for quarrying</u>

Question 8. Should a consent pathway be provided for quarries? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of a discretionary activity.)

Feedback: We **strongly agree** with providing a discretionary consent pathway in the NESF for quarrying. Modern quarrying requires compliance with firm consent conditions, and the use of offsets can provide biodiversity gains.

Consenting pathway for landfills, cleanfills and managed fills

Question 10. Should a consenting pathway be created for landfills, cleanfills and managed fills? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of a discretionary activity.)

Feedback: We **neither agree or disagree** with having a discretionary consent pathway in the NESF for landfills and managed fills, but note that if effects can be managed, and appropriate effects management results in no biodiversity net loss or a gain, then that results in a long-term benefit.

We **strongly agree** with having a discretionary consent pathway for cleanfill in the NESF as this would provide a clearer rule framework to assess the environmental effects of this activity on natural wetlands on a case by case basis, considering the merits of each proposal, in the West Coast Region.

Consenting pathway for mining (minerals)

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

Feedback: We **strongly agree** that a discretionary consenting pathway should be provided for mining in the NESF. Even more so than modern quarrying, modern mining (new and expansion) comes with considerable requirements for public licence and extensive ecological effects management, as well as considerable, well adhered to, ecological offsets. For example, rehabilitation work has been undertaken on the Denniston Plateau for a number of years. Some of the more major gains in habitat recovery and protection, species protection and research into restoration come from mine offset programmes, for example, Baber, King, and Robertson (2015), Simcock and Ross (2017), B. Clarkson et al. (2017), and others such as the Oceania gold mine rehabilitation project at Reefton.

Providing a discretionary consent pathway in the NESF for mining is important for the West Coast. The effects management hierarchy is typically achievable in this Region's environment.

We note that Straterra supports a discretionary activity consenting pathway for mining in the NESF.

Council also supports two other points made by Straterra:

a) that the Regulations should not specify which minerals are able to be mined because the effects of disturbance of wetlands does not change based on mineral or even development activity (e.g. urban development) type; and
b) resource consents for mining should not be subject to any conditions beyond those set out in the 'gateway test'. The NES-F is about addressing the effects of activities, including those of the extractive sector on wetlands. These effects depend on the mining method, and do not depend on the type of mineral being extracted. Often two minerals can be found together in the ground as a function of the geology. It would be impossible to mine one or the other separately. Alluvial gold mines on the West Coast often collect pounamu as a by-product, and at times as a co-product. The same process produces both minerals simultaneously.

Consenting pathway for plan-enabled development

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

Feedback: We **strongly agree** that a discretionary consenting pathway should be provided in the NESF for district plan-enabled urban development. Where housing development is allowed, a consent pathway with an effects management requirement would be appropriate.

For the West Coast Region this is important as significant areas of lowland are likely to have wetlands, and potentially other parts of the Region, even when the amended exclusion (c) applies. In the future, district councils may be looking at areas for managed retreat from natural hazard risks, or to extend existing urban areas, which may also have wetlands that meet the current NPSFM definition.

Additional comments regarding the 10 and 100m wetland buffers

The 100m and 10m buffers about natural wetlands should never be a total barrier, they should be a trigger to require assessment of any hydrological change potential and/or other adverse effects within, or within 10m of, the wetland. If there will be no harm, or harm that can be managed to zero effects, then there should be a consent pathway to proceed. This approach is consistent with the intent of Regulation 53 of the NESF (prohibited earthworks, water use, damming, diversion, discharge which results in complete or partial drainage of a wetland), in that it only applies if the activity will cause complete or partial drainage (this should state permanent, not temporary, drainage). The 10m

and 100m buffers should only apply if there will be hydrological change potential and/or other adverse effects.

Another problem with buffer areas is they can become weed fields between the wetland and the development, where no one is obliged to look after the weedy buffer area.

Submission Recommendation:

That the NESF be amended so that the 10m and 100m buffers should only apply if there will be hydrological change potential, and/or other adverse effects on a natural wetland, rather than the buffers being outright 'no-go' areas.

End of submission

Appendix 1

Figure 1