

IN THE ENVIRONMENT COURT
AT WELLINGTON

I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA

Decision No. [2022] NZEnvC 38

IN THE MATTER of appeals under cl 14 of Schedule 1 to
the Resource Management Act 1991

BETWEEN

LAND MATTERS LTD

(ENV-2019-WLG-000107)

TRANSPower NEW ZEALAND
LTD

(ENV-2019-WLG-000108)

MASTERTON DISTRICT COUNCIL

(ENV-2019-WLG-000110)

PORIRUA CITY COUNCIL

(ENV-2019-WLG-000116)

WELLINGTON FISH AND GAME
COUNCIL

(ENV-2019-WLG-000122)

RANGITĀNE TŪ MAI RĀ TRUST
and RANGITĀNE O WAIRARAPA
INC SOCIETY

(ENV-2019-WLG-000125)

FEDERATED FARMERS OF NEW
ZEALAND INC

(ENV-2019-WLG-000126)

ROYAL FOREST AND BIRD
SOCIETY OF NEW ZEALAND INC

(ENV-2019-WLG-000130)



NEW ZEALAND TRANSPORT
AGENCY

(ENV-2019-WLG-000131)

FIRST GAS LTD

(ENV-2019-WLG-000132)

Appellants

AND

WELLINGTON REGIONAL
COUNCIL

Respondent

Court: Environment Judge B P Dwyer sitting alone under s 279 of the
Act

Date of Order: 22 March 2022

Date of Issue: 22 March 2022

CONSENT ORDER

- A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that the changes set out in **Appendix A** be made to the Proposed Plan.
- B: The parts of the appeals concerning Topic 41 (Wetlands – Objective O28, Policies P38 and P40, 5.5.2 Activities in wetlands, general conditions, Rules R104 to R111, Schedule F3 and related definitions) are otherwise dismissed.
- C: Under s 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties received 2 August 2021.

Other relevant matters

Parties

[2] The following persons gave notice of an intention to become parties to the appeals under s 274 of the Act, and have signed the consent memorandum setting out the relief sought:

- BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd;
- Powerco Ltd;
- Kāpiti Coast District Council; and
- Minister of Conservation.

[3] Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc Society, Wellington Fish and Game Council, Horticulture New Zealand, Wellington Water Ltd, Queen Elizabeth II National Trust, Land Matters Ltd, First Gas Ltd, Ātiawa ki Whakarongotai Charitable Trust, Masterton District Council, South Wairarapa District Council, A & J Boyne, Egon Guttke and Kahungunu ki Wairarapa did not sign the consent memorandum, but in accordance with the Court's direction in its minute dated 28 April 2021, they are deemed to have accepted the consent memorandum and order. Kāinga Ora Homes and Communities, Beef and Lamb New Zealand, Fire and Emergency New Zealand and CentrePort Ltd and CentrePort Properties Ltd confirmed they have no interest in the provisions.

[4] In addition, the Regional Council supplied s 274 parties A and B Mathewson, Hiwi Trust, S Beveridge & E Cates, P & C Cutfield and N & H Diederich with the consent documentation. As there was no response within five working days, it is assumed they have no interest in the matter.

National Policy Statement for Freshwater Management 2020 and Resource Management (National Environmental Standards for Freshwater) Regulations 2020

[5] The National Policy Statement for Freshwater Management 2020 (NPS-FM) and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FW) came into effect following the lodgement of appeals. The Council has made amendments which are beyond the scope of the appeals, in reliance on s 44A and/ or cl 16 of Schedule 1 of the RMA. These are not being put before the Court for approval, but are included for completeness and to ensure transparency of all provisions subject to amendment (whether by consent order or using s 44A and/ or cl 16 of Schedule 1 of the RMA).

[6] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order or are deemed to have done so in accordance with the Court's minute of 28 April 2021;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.


B P Dwyer
Environment Judge



Appendix A

Key:

Red track: changes made by this consent order

Green track: changes in the Decisions Version of the PNRP, with clause 16 changes

Highlighted red track: changes being made by Council in reliance on section 44A of the RMA or clause 16 (included for completeness but not being made by this consent order)

Blue track: changes subject to other consent orders (not being made by this consent order)

<p>Category 1 surface water body</p>	<p>Category 1 surface water body includes, and is limited to <u>the following parts of a surface water body or the coastal marine area:</u></p> <ul style="list-style-type: none"> (a) <u>outstanding water bodies identified in Schedule A (outstanding water bodies), and</u> (b) sites with significant mana whenua values identified in Schedule C (mana whenua), and (b c) inanga spawning habitat identified in Schedule F1b (inanga spawning habitats), and (e d) habitats for indigenous birds in rivers identified in Schedule F2a (birds-rivers) (d) estuaries identified in Schedule F4 (coastal sites), and (d e) significant natural wetlands greater than 0.1ha identified in Schedule F3 (<u>identified significant natural</u> wetlands), and (e f) <u>estuaries identified in Schedule F4 (coastal sites), and</u> (f) outstanding water bodies identified in Schedule A (outstanding water bodies), and (f g) within 1,000m upstream of a surface water abstraction site for a community drinking water supply shown on Map 26.
<p><u>Improved pasture</u></p>	<p><u>Means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture</u></p>

	<p><u>production, and species composition and growth has been modified and is being managed for livestock grazing.</u></p>
<p><u>Natural inland wetland</u></p>	<p><u>Means a natural wetland that is not in the coastal marine area.</u></p>
<p>Natural wetland</p>	<p>Is a permanently or intermittently wet area, shallow water and land water margin that supports a natural ecosystem of plants and animals that are adapted to wet conditions, including in the beds of lakes and rivers, the coastal marine area (e.g. saltmarsh), and groundwater fed wetlands (e.g. springs).</p> <p>Natural wetlands do not include:</p> <p>(a) <u>a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or</u></p> <p>(b) <u>a geothermal wetland; or</u></p> <p>(c) <u>any area of improved pasture that, at 3 September 2020, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain derived water pooling</u></p> <p>(a) damp gully heads, or wetted pasture, or pasture with patches of rushes, or</p> <p>(b) areas of wetland habitat that have established in or around bodies of water specifically designed, installed and maintained for any of the following purposes:</p> <p style="padding-left: 40px;">(i) water storage ponds for</p> <p style="padding-left: 80px;">1. public water supply, or</p> <p style="padding-left: 80px;">2. hydroelectric power generation, or</p> <p style="padding-left: 80px;">3. firefighting or</p> <p style="padding-left: 80px;">4. irrigation, or</p> <p style="padding-left: 80px;">5. stock watering or</p> <p style="padding-left: 40px;">(ii) water treatment ponds for</p> <p style="padding-left: 80px;">a) wastewater, or</p> <p style="padding-left: 80px;">6. stormwater, or</p> <p style="padding-left: 80px;">7. nutrient attenuation, or</p> <p style="padding-left: 80px;">8. sediment control, or</p> <p style="padding-left: 80px;">9. animal effluent, or</p> <p style="padding-left: 40px;">(iii) beautification, landscaping, amenity, or</p> <p style="padding-left: 40px;">(iv) drainage.</p> <p><u>Notes:</u></p> <p>See also significant natural wetland and outstanding natural wetland</p>

	<p>‘Wetland’ has the same meaning as in the RMA.</p> <p>Note that, because of the rarity of wetlands in the Wellington Region, all natural wetlands will meet the representativeness and rarity criteria listed in Policy 23 of the Regional Policy Statement 2013 and <u>are therefore ecosystems and habitats with significant indigenous biodiversity values managed under Policy P40. meet the definition of significant natural wetland.</u></p> <p><u>In the case of uncertainty or dispute about the existence or extent of a natural wetland, a regional council must have regard to the Wetland Delineation Protocols available at https://www.mfe.govt.nz/publications/fresh-water/wetland-delineation-protocols</u></p>
<p>Significant nNatural wetland</p>	<p>A natural wetland that meets one or more of criteria (a) to (d) listed in Policy 23 of the Regional Policy Statement 2013 being: representativeness; rarity; diversity; ecological context.</p> <p>(Note— Schedule F3 lists identified significant natural wetlands for the purpose of managing livestock exclusion under Rule R97).</p>

Objective O28

The extent ~~and significant values~~ of **natural wetlands** ~~is maintained or increased, their values are protected~~ and their condition is restored. Where the ~~significant~~ values relate to biodiversity, aquatic ecosystem health and mahinga kai, restoration is to a healthy functioning state as defined by Table 3.7.

Policy P38: Restoration of Wetlands

The **restoration** of **natural wetlands** and the construction of artificial wetlands to meet the water quality, aquatic ecosystem health and mahinga kai objectives set out in Tables 3.7 and 3.8, to provide habitat for indigenous flora and fauna, ~~and~~ to carry out the physical and ecological functions of **natural wetlands**, ~~and to provide for amenity values where this aligns with restoration appropriate to the area and wetland type~~ shall be encouraged and supported.

Policy P40: Ecosystems and habitats with significant indigenous biodiversity values



Protect in accordance with Policy P32 and Policies P39A-D and, where appropriate, restore the following ecosystems and habitats with significant indigenous biodiversity values:

- (a) the rivers and lakes with significant indigenous ecosystems identified in Schedule F1 (rivers/lakes), and
- (b) the habitats for indigenous birds identified in Schedule F2 (bird habitats), and
- (c) ~~significant natural wetlands~~, including the ~~significant natural wetlands~~ identified in Schedule F3 (identified significant natural wetlands), and
- (d) the ecosystems and habitat-types with significant indigenous biodiversity values in the coastal marine area identified in Schedule F4 (coastal sites) and Schedule F5 (coastal habitats).

Note

All natural wetlands in the Wellington Region are considered to be ~~significant natural wetlands~~ ecosystems and habitats with significant indigenous biodiversity values as they meet at least two of the criteria listed in Policy 23 of the Regional Policy Statement 2013 for identifying indigenous ecosystems and habitats with significant indigenous biodiversity values; being representativeness and rarity.

Chapter 5.5 Rules Wetlands and beds of lakes and rivers

5.5.2 Activities in wetlands general conditions

Wetlands general conditions



Wetland general conditions for activities in ~~natural wetlands~~, ~~significant natural wetlands~~ and ~~outstanding natural wetlands~~ are that:

- (a) the vegetation and the bed of the ~~significant natural wetland~~ or ~~outstanding natural wetland~~ shall not be disturbed to a depth or an extent greater than that required to undertake the activity, and
- (b) there shall be no discharge of contaminants (including but not limited to oil, petrol, diesel, paint, ~~or solvent~~, heavy metals and other toxicants) to water or the bed, except where this is the result of the disturbance of other than sediment and other materials inherent to already existing in the water or bed, but excluding any discharge of heavy metals of other toxicants, and
- (c) no cleaning or refuelling of machinery or equipment, or storage of fuel shall take place ~~on any area in, or within 10m of, a significant natural wetland or outstanding natural wetland~~, and fuel storage shall not occur or at any location where fuel can enter a water body, and
- (d) all machinery, equipment and materials used for the activity shall be removed from the ~~significant natural wetland~~ or ~~outstanding natural wetland~~ every night and on completion of the activity. This includes any excess material from the construction operation, any materials used during construction of any structure but not part of that structure, and any material removed or demolished from any structure, and
- (e) structures are designed, installed and maintained, and activities are carried out in a manner to ensure that fish passage is maintained at all times, unless a temporary restriction of no more than 48 hours is required for construction or maintenance activities, and
- (f) in any part of the ~~significant natural wetland~~ or ~~outstanding natural wetland~~ with inanga spawning habitat identified in Schedule F1b (inanga spawning), F4 (coastal sites) and Schedule F5 (coastal habitats), no bed disturbance, diversions of water or sediment discharge shall occur between 1 ~~March~~ January and 31 May, except that material accumulated at the outlet of a stormwater discharge pipe may be removed between 1 January and 1 March, so long as there is no associated trimming or removal of vegetation (including weeds) on the bed or banks, and
- (g) the diversion of water shall not be for longer than the time required to undertake the activity, and any diversion of water required to undertake the activity must be for fewer than 14 consecutive days, and must occur prior to the disturbance of the bed of the ~~significant natural wetland~~ or ~~outstanding natural wetland~~, and

- (h) the following setback conditions apply to plantation forestry activities as covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017:
- (i) earthworks must not occur within 10m of a **significant natural wetland**, and
 - (ii) harvesting machinery must not be operated within 10m of a **significant natural wetland**, and
 - (iii) mechanical land preparation must not occur within 10m of a **significant natural wetland**.

Note

Cleaning and inspection of all equipment, machinery, or operating plant may be required under the Biosecurity Act 1993 to prevent the spread of “pests” or “unwanted organisms”.

The meaning of earthworks, harvesting machinery and mechanical preparation are defined in the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.

5.5.3 Activities in wetlands

Note

Also refer to the relevant district plan for provisions that apply to activities within or adjacent to wetlands.

Nothing in this Plan affects:

- (a) an individual's right under RMA section 14(3)(b) to take and use water for reasonable domestic needs, or for the reasonable needs of a person's animals for drinking water, provided the take and use of water does not, or is not likely to, have an adverse effect on the environment; or
- (b) the take and use of water for emergency or training purposes in accordance with section 48 of the Fire and Emergency New Zealand Act 2017.

Rule R104: Existing Sstructures in natural wetlands and **significant** natural wetlands – permitted activity 

Unless regulated by Regulations 43, 44, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, ~~in a significant~~ natural wetland:

- (a) The use, maintenance, repair, addition, alteration, or replacement (like for like) of an existing lawfully established structure or existing lawfully established regionally significant infrastructure, including associated vegetation removal, and
- ~~(b) the placement of a new structure of an area less than 10m² for the purpose of hunting and recreation (including maimai and jetties), and~~
- (b) the removal of an existing structure, in a natural wetland or significant natural wetland,

including any associated:

- (c) disturbance of a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (d) deposition in, on, or under a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (e) damage to a part of the foreshore or seabed that forms part of a **significant natural wetland**, and
- (f) diversion of water, and

- (g) discharge of sediment to water

is a permitted activity, provided the following conditions are met:

- (i) only hand-held machinery is used in any area of the **significant natural wetland**, and
- ~~(j) any new structure is not located within a site identified in Schedule C (mana whenua), and~~
- (k) any alteration or addition to an existing structure does not increase the size of the structure so that it occupies an area greater than 10m², and
- (l) the activity shall comply with the wetland general conditions for activities in **natural wetlands**, **significant natural wetlands** and **outstanding natural wetlands** specified above in Section 5.5.2.

Note

Regulations 43, 44, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R104(a) in respect of vegetation clearance, earthworks or land disturbance or taking, use, damming, diversion or discharge of water associated with the maintenance of a wetland utility structure or the maintenance and operation of specified infrastructure and other infrastructure.

Rule R105: Planting and pest plant control in **natural wetlands**, **significant natural wetlands** and **outstanding natural wetlands** – permitted activity 

The deliberate introduction or planting of a plant, and the removal or control of pest plants in the bed of a **natural wetland**, **significant natural wetland**, or **outstanding natural wetland** including any associated:

- (a) disturbance of a river or lake bed, or foreshore or seabed, that forms part of a **significant natural wetland** or outstanding natural wetland, and
- (b) deposition in, on, or under a river or lake bed, or foreshore or seabed, that forms part of a **significant natural wetland** or outstanding natural wetland, and
- (c) damage to part of the foreshore or seabed that forms part of a **significant natural wetland** or outstanding natural wetland, and
- (d) diversion of water, and
- (e) discharge of sediment to water

is a permitted activity provided the following conditions are met:

- (f) only ~~appropriate~~ indigenous wetland species typical of the area and wetland type are deliberately introduced or planted, and
- (g) only ~~appropriate~~ plant species that are not typical of the area and wetland type are deliberately removed or controlled, and
- (h) only **agricultural** approved by the Environmental Protection Authority for use into and over water are used and the conditions of Rule R3736A ~~excluding clause (d)~~ are met, and
- (i) **agricultural** are not applied by aerial spraying, and
- (j) only hand-held machinery is used in any area of the **significant natural wetland or outstanding natural wetland**, and
- (k) the activity shall comply with the wetland general conditions for activities in ~~natural wetlands~~, **significant natural wetlands and outstanding natural wetlands** specified above in Section 5.5.2.

Note

The Wellington Regional Council provides advice on its website and upon request regarding the management of wetlands, including appropriate species to plant (those that are typical of the area and wetland type) and appropriate ~~pest~~ plants to remove (those that are not typical of the area and wetland type).

Rule R105 prevails over Regulation 38(1) and (2) of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 where the activity is the deliberate introduction or planting of a plant, or the removal or control of pest plants in the bed of a natural wetland or an outstanding natural wetland. Regulation 38 otherwise applies.

Rule R107: Activities in ~~natural wetlands and significant~~ natural wetlands – discretionary activity



The following activities in a ~~natural wetland or significant~~ natural wetland except for those stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106 or Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020:

- (a) the placement of ~~new~~ structures with a footprint of 10m² or greater for the purpose of hunting and recreation (including maimai and jetties) and all other structures, and
- (b) the discharge of water or contaminants not permitted by Rule R42, where the adverse effects on aquatic life are no more than minor, and
- (c) the clearance of indigenous wetland vegetation, (excluding the removal of pest plants under Rule R105 and the removal of plants for Māori customary use or for the use of an individual under R105A, and vegetation clearance regulated by

Regulations 43, 44, 45, 46, 47 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020),

- (d) activities not meeting the conditions of Rules R104, ~~or~~ R105 or R105A,

including any associated:

- (e) disturbance of a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (f) deposition in, on, or under a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (g) damage to a part of the foreshore or seabed that forms part of a **significant natural wetland**, and
- (h) diversion of water, and
- (i) discharge of sediment to water

are discretionary activities.

Notes

Rule R107(a) prevails over Regulation 42 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities occurring in the bed a **natural wetland**, but that regulation applies to activities within specified setbacks from the bed of a **natural wetland**.

Regulations 45 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R107(a) in respect of vegetation clearance, earthworks or land disturbance or taking, use, damming, diversion or discharge of water associated with the placement of a new structure in the bed of a **natural wetland**.

Rule R107(c) prevails over Regulations 40, 41, 42 and 51 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, for activities occurring in the bed of a **natural wetland**, but those regulations apply to activities within specified setbacks from the bed of a **natural wetland**.

Regulation 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevails over Rule 107(c).

Rule R108: Activities in ~~natural wetlands and~~ **significant** natural wetlands – non-complying activity 

The following activities, in a ~~natural wetland or~~ **significant natural wetland** except for those stipulated in and carried out in accordance with a **wetland restoration management plan** under Rule R106 or Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020:

- (a) take, use, damming or diverting water into, within, or from the **significant natural wetland**, or the take and use of water within 50m of the **significant natural wetland**, and
- (b) land disturbance including excavation and deposition, and
- (c) reclamation including and drainage or diverting of water to an extent that the area affected ceases to have the characteristics of a **significant natural wetland**,

including any associated:

- (d) disturbance of a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (e) deposition in, on, or under a river or lake bed, or foreshore or seabed that forms part of a **significant natural wetland**, and
- (f) damage to a part of the foreshore or seabed that forms part of a **significant natural wetland**, and
- (g) diversion of water, and
- (l) discharge of sediment to water

are non-complying activities.

Notes

Rule R108(a)-(c) prevails over Regulations 38-51 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, but those regulations apply to damming or diverting water within 100m of the bed of a **natural wetland** and take and use within 50-100m of the bed of a **natural wetland**.

Regulations 52, 53 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevail over Rule R108(a) and (b).

Regulation 53 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 prevails over Rule R108(c).

Rule R109: Activities in outstanding natural wetlands – discretionary activity

The following activities in an **outstanding natural wetland** identified in Schedule A3 (outstanding wetlands), except those stipulated in and carried out in accordance with a **wetland restoration management plan** under Rule R106 or Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020:

- (a) the maintenance, repair or replacement (like for like) of existing structures, and
- (b) maintenance, repair, replacement, or upgrade of existing regionally significant infrastructure within Pauatahanui Inlet Saltmarsh, Pauatahanui Inlet Tidal Flats and Waikanae River Mouth, and
- (c) the placement of new structures of an area less than 10m² for the purpose of hunting and recreation (including maimai and jetties), and
- (d) the removal of existing structures, and
- (e) removal of pest plants that are not permitted by Rule R105

are discretionary activities.

Notes

Rule R109(a) prevails over Regulations 43, 44, 46, and 47 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities occurring in the bed of an **outstanding natural wetland**, but those regulations apply to activities within specified setbacks from the bed of an **outstanding natural wetland**.

Rule R109(b) prevails over Regulations 46 and 47 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities occurring in the bed of an **outstanding natural wetland**, but those regulations apply to activities within specified setbacks from the bed of an **outstanding natural wetland**.

Rule R109(c) prevails over Regulation 42 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities occurring in the bed an **outstanding natural wetland**, but that regulation applies to activities within specified setbacks from the bed of an **outstanding natural wetland**.

Rule R109(e) prevails over Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities occurring in the bed of an **outstanding natural wetland**, but this regulation applies to activities within specified setbacks from the bed of an **outstanding natural wetland**.

Rule R110: Activities in outstanding natural wetlands – non-complying activity

The following activities, in an **outstanding natural wetland** identified in Schedule A3 (outstanding wetlands), except for those stipulated in and carried out in accordance with a **wetland restoration management plan** under Rule R106 or Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020:

- (a) the discharge of water or contaminants, and
- (b) take, use, damming or diverting water into, within, or from the wetland **outstanding natural wetland**, or the take and use of water within 50m of the **outstanding natural wetland**, and
- (c) the placement of new structures with an area 10m² or greater for the purpose of hunting and recreation (including maimai and jetties), and all other structures, and
- (d) land disturbance including excavation and deposition, and
- (e) **vegetation clearance**, excluding the removal of pest plants under Rule R105, and
- (f) other activities that are not discretionary under Rule R109 or prohibited by Rule R111, and
- (g) partial reclamation or partial drainage associated with the maintenance, repair, replacement or **upgrade** of existing **regionally significant infrastructure** within Pauatahanui Inlet Saltmarsh, Pauatahanui Inlet Tidal Flats and Waikanae River Mouth

are non-complying activities.

Note

Rule R110(a)-(g) prevails over the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for activities within the bed of an **outstanding natural wetland**, but those regulations apply to activities within specified setbacks from the bed of a **natural wetland**.

Rule R111: ~~Reclamation or drainage~~ of outstanding natural wetlands – prohibited activity

~~Reclamation or drainage (including drainage or diverting of water to an extent that the area affected ceases to have the characteristics of a wetland)~~ of all or part of an **outstanding natural wetland** identified in Schedule A3 (outstanding wetlands), except stipulated in and carried out in accordance with a **wetland restoration management plan** under Rule R106 ~~or Regulation 39 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, or Rule R110(g)~~, is a prohibited activity.

Note

Rule R111 prevails over the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 for reclamation or drainage within an **outstanding natural wetland**, but those regulations apply to **reclamation** or drainage within specified setbacks from a **natural wetland**.

Rule R116: Establishing a ~~small dam and existing dams~~ – permitted activity

The placement of a new ~~small dam, or use of a small dam~~, that is fixed in, on, or under the bed of a river including any associated:

- (a) disturbance of the river or lake bed, and
- (b) deposition on the river or lake bed, and
- (c) diversion of water, and
- (d) damming of water, and
- (e) discharge of sediment to water, and
- (f) **reclamation** associated with the dam structure, and
- (g) the damming of water outside the bed of a lake or river by a dam structure

is a permitted activity, provided the following conditions are met:

- (h) where the ~~small~~ dam occurs in the bed of a lake or river, the activity shall comply with the beds of lakes and rivers general conditions specified above in Section 5.5.4, except condition (l) (not altering the natural course of the river), and, where the activity occurs in an **ephemeral flow path**, condition (d) (fish passage), and
- (i) the activity does not occur within a site identified in Schedule C (mana whenua), and
- (j) the ~~small~~ dam is not located in and does not cause water to pond in, a **significant natural wetland** identified in Schedule F3 (significant wetlands) or an outstanding water body identified in Schedule A (outstanding water bodies), and

Deletion of "significant" from headings in Schedule F3 as follows:

Schedule F3: Identified ~~significant~~ natural wetlands

Identified ~~Significant~~ Natural Wetlands (Schedule F3), Map18a