

Ministry for the Environment

8 July 2022

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

To whom it may concern,

As you may know, Property Council is the leading not-for-profit advocate for New Zealand's most significant industry, property. Property is New Zealand's largest industry with a direct contribution to GDP of \$41.2 billion (15 percent). The property sector shapes New Zealand's social, economic and environmental fabric. Property Council advocates for the creation and retention of a well-designed, functional and sustainable built environment, in order to contribute to the overall prosperity and well-being of New Zealand.

We are writing to you in response to your request for feedback on the exposure draft of proposed changes to the NPS-FM and NES-F. Our comments primarily relate to changes to the NPS-FM and The Report, Recommendations and Summary of Submissions - Managing Our Wetlands: Proposed Changes to the Wetland Regulations ("The Report").

"Natural Wetland" definition

We support the Government's decision to review the definition of "natural wetland". As part of MfE's consultation in 2021, Property Council expressed concern that the definition was too narrow and would significantly impact developments across New Zealand. In particular, we were concerned there would be serious implications for the viability of major housing developments as well as increase barriers to achieving better quality supply.

We are pleased to see that the natural wetland definition is being reviewed and are generally supportive and have a few recommendations as below:

- As per Recommendation 6 of The Report, we support the deletion of 'and is subject to temporary rain-derived water pooling' from part (c) of the definition of 'natural wetland' in the NPS-FM.
- Induced wetlands should be expressly excluded from the "natural wetland" definition as this is currently presenting a number of issues. For example, a blocked drain which leads to an induced wetland, cannot be unblocked when it results in the wetland being drained. Expressly excluding induced wetlands from the definition will avoid any future unintended consequences such as this.
- The addition of "threatened species" in the definition will create further confusion as to what is considered to be a "natural wetland". This is already appropriately managed in the Wildlife Act 1953 and therefore does not need to be considered in this legislation as well.

- More clarity is required around whether coastal wetlands are captured in the definition. Our understanding is that there has been some disparities between MfE and the High Court regarding this. If MfE's intent was not to include coastal wetlands, we then recommend that this be expressly excluded from the definition.

Urban development consent pathway

We generally support the inclusion of a new consenting pathway for urban development. The lack of such a pathway currently, has seen several projects negatively impacted as resource consents have not been able to be sought for them.

In relation to including the definition of the "best practicable location" in which an activity is to be undertaken in, we ask that this only applies within the context of the specific site in question. Most applicants using this pathway will not be able to undertake an assessment of alternatives to optimise site selection.

We recommend that the specified infrastructure consent pathway be updated from Discretionary to Restricted Discretionary to align with the Urban Development Consent Pathway. It has now become more common than ever, that urban development can proceed on a site, but the specified infrastructure cannot. This has significant adverse effects and will further exacerbate the shortage of New Zealand's much needed infrastructure alongside urban development.

General Comment

It is important to note that the regulations are not used to try and achieve reduction in fossil fuels. As there are already policies in place that deal with this, the focus should be more on the effects of these activities, as opposed to the activities themselves.

We thank you for the opportunity to submit on the proposed amendments to the exposure draft, and The Report. We welcome the proposed revisions as it as necessary to prevent any further barriers to development in New Zealand.

Any further enquiries, please do not hesitate to contact Sandamali Gunawardena, Advocacy Advisor, via email: sandamali@propertynz.co.nz or cell: 021 045 9871.

Yours sincerely,



Leonie Freeman
Chief Executive