E3. Lakes, rivers, streams and wetlands

E3.1. Introduction

The management of the beds of lakes, rivers, streams and wetlands is important for the protection of natural ecological and biodiversity values, for the efficient passage of flood flows, and the retention of high water quality. Retaining the natural profile and course of a river or stream, keeping riparian vegetation and fish passage and avoiding sediment generation from bed disturbance supports the retention of freshwater ecosystems.

While the Resource Management Act 1991 defines the term ‘river’ as including streams, the Plan refers to both ‘rivers and streams’. Stream is a more common way of describing the smaller watercourses that are characteristic of Auckland.

In rural areas bed disturbance from livestock access and the loss of smaller streams, wetlands and lake margins by land drainage and infill are the key factors affecting the quality of lakes, rivers, streams and wetlands.

In urban Auckland lakes, rivers, streams and wetlands provide an important component for the assimilation and conveyance of stormwater and form part of the overall stormwater network. Streams have also been piped and filled over to reclaim land for urban land development and have been modified to accommodate infrastructure such as roads, stormwater and wastewater networks and other utility services. Urban streams nevertheless continue to provide important ecosystem services and can provide meaningful ecological and biodiversity values.

There is a balance to be struck between the need to provide for the ongoing growth of urban Auckland, including the requirements of infrastructure, and the protection, maintenance and enhancement of lakes, rivers, streams and wetlands. It is important that development occurs in a sustainable manner which should involve, where practicable, the retention and enhancement of lakes, rivers, streams and wetlands.

The Plan identifies a number of areas where the natural values of lakes, rivers, streams and wetlands are higher than elsewhere. These areas are especially vulnerable to the adverse effects of inappropriate subdivision, use and development and require a greater level of protection. These areas are identified in the following overlays:

- D4 Natural Stream Management Areas Overlay;
- D5 Natural Lake Management Areas Overlay;
- D6 Urban Lake Management Areas Overlay;
- D7 Water Supply Management Areas Overlay
- D8 Wetland Management Areas Overlay; and
- D9 Significant Ecological Areas Overlay.

This Plan requires that permanent loss is minimised and significant modification or diversion of lakes, rivers, streams and wetlands are avoided. Where adverse effects cannot be avoided, remedied or mitigated, it may be appropriate that the residual adverse effects be offset by providing environmental benefits either onsite or offsite. In

some circumstances, the existing natural values of a lake, river, stream or wetland are so high that offsetting will be inappropriate.

An offset is an action to compensate significant residual adverse effects on ecological functioning or biodiversity arising from subdivision, use or development. Offsets would only be contemplated after appropriate avoidance, remediation, prevention and mitigation measures have been taken.

The rules in this section also implement the objectives and policies of D4 Natural Stream Management Areas Overlay, D5 Natural Lake Management Areas Overlay, D6 Urban Lake Management Areas Overlay, D7 Water Supply Management Areas Overlay, D8 Wetland Management Areas Overlay and D9 Significant Ecological Areas Overlay.

For the purpose of this section, the term ‘wetland’ excludes wetlands forming part of ‘stormwater management devices’.

E3.2. Objectives [rp]

(1) Auckland's lakes, rivers, streams and wetlands with high natural values are protected from degradation and permanent loss.

(2) Auckland's lakes, rivers, streams and wetlands are restored, maintained or enhanced.

(3) Significant residual adverse effects on lakes, rivers, streams or wetlands that cannot be avoided, remedied or mitigated are offset where this will promote the purpose of the Resource Management Act 1991.

(4) Structures in, on, under or over the bed of a lake, river, stream or wetland are provided for where there are functional or operational needs for the structure to be in that location, or traverse that area.

(5) Activities in, on, under or over the bed of a lake, river, stream and wetland are managed to minimise adverse effects on the lake, river, stream or wetland.

(6) Reclamation and drainage of the bed of a lake, river, stream and wetland is avoided, unless there is no practicable alternative.

National Policy Statement for Freshwater Management 2020

The National Policy Statement for Freshwater Management 2020 requires the following objective to be inserted into regional plans under section 55 of the Resource Management Act 1991 without using the process in schedule 1 in the Resource Management Act 1991.

Fish passage

(7) The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.

E3.3. Policies [rp]

General

(1) Avoid significant adverse effects, and avoid where practicable or otherwise remedy or mitigate other adverse effects of activities in, on, under or over the beds of lakes, rivers, streams or wetlands within the following overlays:

(a) D4 Natural Stream Management Areas Overlay;

(b) D5 Natural Lake Management Areas Overlay;

(c) D6 Urban Lake Management Areas Overlay;

(d) D9 Significant Ecological Areas Overlay; and

(e) D8 Wetland Management Areas Overlay.

(2) Manage the effects of activities in, on, under or over the beds of lakes, rivers, streams or wetlands outside the overlays identified in Policy E3.3(1) by:

(a) avoiding where practicable or otherwise remedying or mitigating any adverse effects on lakes, rivers, streams or wetlands; and

(b) where appropriate, restoring and enhancing the lake, river, stream or wetland.

(3) Enable the enhancement, maintenance and restoration of lakes, rivers, streams or wetlands.

(4) Restoration and enhancement actions, which may form part of an offsetting proposal, for a specific activity should:

(a) be located as close as possible to the subject site;

(b) be ‘like-for-like’ in terms of the type of freshwater system affected;

(c) preferably achieve no net loss or a net gain in the natural values including ecological function of lakes, rivers, streams or wetlands; and

(d) consider the use of biodiversity offsetting as outlined in Appendix 8 Biodiversity offsetting.

Note 1

When having regard to Policy E3.3(4) above, the following documents or any updated version of them should be referred to:

- Auckland Council Technical Report 2011/009: Stream Ecological Valuation (SEV): a method for assessing the ecological functions of Auckland Streams (October 2011) for guidance on how the location and extent of any offset may be calculated and assessed; and
- Guidance on Good Practice Biodiversity Offsetting in New Zealand, New Zealand Government et al, August 2014.

Neither of these reference documents has precedence. An acceptable offsetting proposal may combine elements from both documents.

(5) Avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects of activities in, on, under or over the beds of lakes, rivers, streams or wetlands on:

(a) the mauri of the freshwater environment; and

(b) Mana Whenua values in relation to the freshwater environment.

(6) Manage the adverse effects on Mana Whenua cultural heritage that is identified prior to, or discovered during, subdivision, use and development by:

(a) complying with the protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin;

(b) undertaking appropriate actions in accordance with mātauranga and tikanga Māori; and

(c) undertaking appropriate measures to avoid adverse effects, or where adverse effects cannot be avoided, effects are remedied or mitigated.

Structures and the diversion of surface water

(7) Provide for the operation, use, maintenance, repair, erection, reconstruction, placement, alteration or extension, of any structure or part of any structure in, on, under, or over the bed of a lake, river, stream or wetland, and any associated diversion of water, where the structure complies with all of the following:

(a) there is no practicable alternative method or location for undertaking the activity outside the bed of the lake, river, stream or wetland;

(b) the structure is designed to be the minimum size necessary for its purpose to minimise modification to the bed of a lake, river, stream or wetland;

(c) the structure is designed to avoid creating or increasing a hazard;

(d) the structure is for any of the following:

(i) required as part of an activity designed to restore or enhance the natural values of any lakes, rivers, streams or wetlands and their margins, or any adjacent area of indigenous vegetation or habitat of indigenous fauna;

(ii) designed to maintain and/or enhance public access to, over and along any lake, river, stream or wetland and their margins;

(iii) necessary to provide access across a lake, river, stream or wetland;

(iv) associated with infrastructure;

(v) necessary for flood protection and the safeguarding of public health and safety; or

(vi) required for the reasonable use of production land.

(e) the structure avoids significant adverse effects and avoids, remedies or mitigates other adverse effects on Mana Whenua values associated with freshwater resources, including wāhi tapu, wāhi taonga and mahinga kai.

(8) Enable the removal or demolition of any structure or part of any structure in, on, under, or over the bed of a lake, river, stream or wetland, and any associated diversion of water, provided adverse effects are avoided, remedied or mitigated.

Disturbance and depositing of any substance

(9) Provide for the excavation, drilling, tunnelling, thrusting or boring or other disturbance, and the depositing of any substance in, on or under the bed of a lake, river, stream or wetland, where it complies with all of the following:

(a) there is no practicable alternative method or location for undertaking the activity outside the lake, river, stream or wetland;

(b) the activity is required for any of the following:

(i) as part of an activity designed to restore or enhance the natural values of any lake, river, stream or wetland, or any adjacent area of indigenous vegetation or habitat of indigenous fauna;

(ii) to maintain and/or enhance public access to, over and along any lake, river, stream or wetland and associated margins;

(iii) to provide access across a lake, river, stream or wetland;

(iv) for the operation, use, maintenance, repair, development or upgrade of infrastructure;

(v) to restore, maintain or improve access to wharves and jetties or mooring areas, or to maintain the navigation and safety of existing channels;

(vi) to reduce the risk of occurrence or the potential adverse effects of flooding, erosion, scour or sediment depositing;

(vii) for the reasonable use of production land; or

(viii) to undertake mineral extraction activities and mitigation and following that, offsetting can be practicably implemented.

(c) the disturbance avoids significant adverse effects and avoids, remedies or mitigates other adverse effects on Mana Whenua values associated with freshwater resources, including wāhi tapu, wāhi taonga and mahinga kai.

Planting of plants

(10) Enable the planting of any plant, excluding pest species, in, on, or under the bed of a lake, river, stream or wetland where it is suitable for habitat establishment, restoration or enhancement, the maintenance and enhancement of amenity values, flood or erosion protection or stormwater runoff control provided it does not create or exacerbate flooding.

(11) Encourage the planting of plants that are native to the area.

(12) Encourage the incorporation of Mana Whenua mātauranga, values and tikanga in any planting in, on, or under the bed of a lake, river, stream or wetland.

Reclamation and drainage

(13) Avoid the reclamation and drainage of the bed of lakes, rivers, streams and wetlands, including any extension to existing reclamations or drained areas unless all of the following apply:

(a) there is no practicable alternative method for undertaking the activity outside the lake, river, stream or wetland;

(b) for lakes, permanent rivers and streams, and wetlands the activity is required for any of the following:

(i) as part of an activity designed to restore or enhance the natural values of any lake, river, stream or wetland, any adjacent area of indigenous vegetation or habitats of indigenous fauna;

(ii) for the operation, use, maintenance, repair, development or upgrade of infrastructure; or

(iii) to undertake mineral extraction activities*;* and

(c) the activity avoids significant adverse effects and avoids, remedies or mitigates other adverse effects on Mana Whenua values associated with freshwater resources, including wāhi tapu, wāhi taonga and mahinga kai.

Stock access to lake, river and stream beds

(14) Avoid more than minor adverse effects on freshwater and coastal water from livestock grazing.

Riparian margins

(15) Protect the riparian margins of lakes, rivers, streams, and wetlands from inappropriate use and development and promote their enhancement to through all of the following:

(a) safeguard habitats for fish, plant and other aquatic species, particularly in rivers and streams with high ecological values;

(b) safeguard their aesthetic, landscape and natural character values;

(c) safeguard the contribution of natural freshwater systems to the biodiversity, resilience and integrity of ecosystems; and

(d) avoid or mitigate the effects of flooding, surface erosion, stormwater contamination, bank erosion and increased surface water temperature.

(16) Protect land alongside streams for public access through the use of esplanade reserves and esplanade strips, marginal strips, drainage reserves, easements or covenants where appropriate and for water quality, ecological and landscape protection purposes.

National Policy Statement for Freshwater Management 2020

The National Policy Statement for Freshwater Management 2020 requires the following policies to be inserted into regional plans under section 55 of the Resource Management Act 1991 without using the process in schedule 1 in the Resource Management Act 1991.

Natural inland wetlands

(17) The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:

(a) the loss of extent or values arises from any of the following:

(i) the customary harvest of food or resources undertaken in accordance with tikanga Māori

(ii) wetland maintenance, restoration, or biosecurity (as defined in the National Policy Statement for Freshwater Management)

(iii) scientific research

(iv) the sustainable harvest of sphagnum moss

(v) the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)

(vi) the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020

(vii) natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020); or

(b) the regional council is satisfied that:

(i) the activity is necessary for the purpose of the construction or upgrade of specified infrastructure; and

(ii) the specified infrastructure will provide significant national or regional benefits; and

(iii) there is a functional need for the specified infrastructure in that location; and

(iv) the effects of the activity are managed through applying the effects management hierarchy; or

(c) the regional council is satisfied that:

(i) the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and

(ii) the urban development will provide significant national, regional or district benefits; and

(iii) the activity occurs on land identified for urban development in operative provisions of a regional or district plan; and

(iv) the activity does not occur on land that is zoned in a district plan as general rural, rural production or rural lifestyle; and

(v) there is either no practicable alternative location for the activity within the area of development, or every other practicable location in the area of the development would have equal or greater adverse effects on a natural inland wetland; and

(vi) the effects of the activity will be managed through applying the effects management hierarchy; or

(d) the regional council is satisfied that:

(i) the activity is necessary for the purpose of quarrying activities; and

(ii) the extraction of the aggregate will provide significant national or regional benefits; and

(iii) there is a functional need to the activity to be done in that location; and

(iv) the effects of the activity will be managed through applying the effects management hierarchy; or

(e) the regional council is satisfied that:

(i) the activity is necessary for the purpose of:

- the extraction of minerals (other than coal) and ancillary activities; or
- the extraction of coal and ancillary activities as part of the operation or extension of an existing coal mine; and

(ii) the extraction of the mineral will provide significant national or regional benefits; and

(iii) there is a functional need for the activity to be done in that location; and

(iv) the effects of the activity will be managed through applying the effects management hierarchy; or

(f) the regional council is satisfied that:

(i) the activity is necessary for the purpose of constructing or operating a new or existing landfill or cleanfill area; and

(ii) the landfill or cleanfill area:

- will provide significant national or regional benefits; or
- is required to support urban development as referred to in paragraph (c); or
- is required to support the extraction of aggregates as referred to in paragraph (d); or
- is required to support the extraction of minerals as referred to in paragraph (e); and

(iii) there is either no practicable alternative location in the region, or every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland wetland; and

(iv) the effects of the activity will be managed through applying the effects management hierarchy.

Rivers

(18) The loss of river extent and values is avoided, unless the council is satisfied:

(a) that there is a functional need for the activity in that location; and

(b) the effects of the activity are managed by applying the effects management hierarchy.

E3.4. Activity table

Table E3.4.1 specifies the activity status of activities in, on, under, or over the bed of lakes, rivers, streams and wetlands pursuant to sections 13 and 14 of the Resource

Management Act 1991. The activity status of the associated diversion of water, depositing any substance, and incidental damming of water are also specified.

For the purpose of this section the overlays referred to in Table E3.4.1 Activity table include all of the following:

(1) D4 Natural Stream Management Areas Overlay;

(2) D5 Natural Lake Management Areas Overlay;

(3) D6 Urban Lake Management Areas Overlay;

(4) D9 Significant Ecological Areas Overlay; and

(5) D8 Wetland Management Areas Overlay.

This activity table does not address the modification or removal of vegetation along riparian margins, these are in E15 Vegetation management and biodiversity.

Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

If any activity listed in rules (including standards) E3.4.1 to E3.6.1 is regulated by the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017 (“NESPF”) then the NESPF applies and prevails.

However, the NESPF allows the plan to include more restrictive rules in relation to one or more of the following:

- Significant Ecological Areas Overlay;
- Water Supply Management Areas Overlay;
- Outstanding Natural Character Overlay;
- High Natural Character Overlay;
- Outstanding Natural Landscapes Overlay;
- Outstanding Natural Features Overlay; or
- activities generating sediment that impact the coastal environment.

Where there is a rule in the plan that relates to any of the matters listed above then the plan rule will apply. In the event that there is any conflict between the rules in the plan and the NESPF in relation to any of the above, the most restrictive rule will prevail.

If the NESPF does not regulate an activity then the plan rules apply.

Resource Management (National Environmental Standards for Freshwater) Regulations 2020

The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (‘Freshwater NES’) came into force on 3 September 2020. Currently, there may be duplication or conflict between specific plan rules and the Freshwater NES.

If an activity provided for in rules E3.4.1 to E3.9, including any associated matters of discretion, is also regulated by the Freshwater NES, where there is conflict then the most restrictive provision will prevail.

If the Freshwater NES regulations do not apply to an activity, then the plan rules apply.

Duplication or conflict between plan rules and the Freshwater NES will be addressed in the plan as soon as practicable.

Table E3.4.1 Activity table

Activities in, on, under or over the bed of lakes, rivers, streams (including intermittent stream) and wetlands		**Activity status- outside overlays**	**Activity status - within overlays**
General			
(A1)	Any activities in, on, under or over the bed of lakes, rivers, streams and wetlands not otherwise provided for	D	NC
Activities involving planting and the associated diversion of water			
(A2)	Conservation planting complying with the standards in E3.6.1.2	P	P
(A3)	Conservation planting not complying with the standards in E3.6.1.2	RD	RD
(A4)	Planting of aquatic invasive plants	Pr	Pr
Activities involving depositing any substance (other than that associated with a structure authorised by another rule in this activity table)			
(A5)	Depositing any substance for the purposes of habitat enhancement or scientific research	RD	RD
(A6)	Depositing any substance excluding litter, refuse, other waste and/or contaminated material	D	NC
(A7)	Depositing litter, refuse, waste and/or contaminated material	Pr	Pr
(A8)	Depositing any substance for the purposes of providing fish passage for culverts lawfully existing on or before 30 September 2013 complying with the standards in E3.6.1.3	P	P
(A9)	Any activity not complying with the general permitted activity standards in E3.6.1.1 or the specific activity standards in E3.6.1.2 and E3.6.1.3	D	NC
Activities involving disturbance and associated sediment discharge			
(A10)	Channel clearance less than 100m complying with the standards in E3.6.1.5	P	D
(A11)	Channel clearance more than 100m	D	NC
(A12)	Emergency works complying with the standards in E3.6.1.6	P	P
(A13)	Extraction of material less than 50m³ per year from the bed of a river or stream complying with the standards in E3.6.1.7	P	NC
(A14)	Pest plant removal complying with the standards in E3.6.1.8	P	P

(A15)	Mangrove seedling removal complying with the standards in E3.6.1.9	P	P
(A16)	Mangrove removal of up to 200m^2 immediately adjacent to existing lawful structures, infrastructure or drainage systems to enable their operation, use, maintenance, repair, and functioning complying with the standards in E3.6.1.9	P	P
(A17)	Mangrove removal not otherwise provided for	D	D
(A18)	Any activities not complying the general permitted activity standards in E3.6.1.1 or the specific activity standards in E3.6.1.4 – E3.6.1.9	D	NC
Activities involving the diversion of a river or stream to a new course including any associated disturbance and sediment discharge			
(A19)	Diversion of a river or stream to a new course and associated disturbance and sediment discharge	D	NC
(A20)	Diversion of a river or stream associated with mineral extraction activities within the H28 Special Purpose - Quarry Zone	RD	RD
Works on structures lawfully existing on or before 30 September 2013 and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water			
(A21)	The operation, use, maintenance and repair of existing structures comply with the standards in E3.6.1.11	P	P
(A22)	Minor upgrades to existing infrastructure related structure complying with the standards in E3.6.1.12	P	RD
(A23)	Replacement, upgrading or extension of existing structures complying with the standards in E3.6.1.12	P	RD
(A24)	Demolition or removal of existing structures complying with the standards in E3.6.1.13	P	P
(A25)	Partial demolition or removal of structures lawfully existing on or before 30 September 2013	RD	RD
(A26)	Any activities not complying with the general permitted activity standards in E3.6.1.1or the specific activity standards in E3.6.1.10 – E3.6.1.13	D	NC
New structures and the associated bed disturbance or depositing any substance, reclamation, diversion of water and incidental temporary damming of water			
(A27)	Temporary structures complying with standards in E3.6.1.15	P	D
(A28)	Structures associated with the enhancement and restoration of lakes, rivers, streams or wetlands not otherwise provided for	RD	RD
(A29)	Bridges or pipe bridges complying with the standards in E3.6.1.16	P	D

(A30)	New cables, ducts, lines or pipelines on structures lawfully existing on or before 30 September 2013 complying with the standards in E3.6.1.14	P	P
(A31)	New cables or lines that cross over a river or stream which do not require support structures in the watercourse complying with the standards in E3.6.1.17	P	RD
(A32)	Culverts or fords less than 30m in length when measured parallel to the direction of water flow complying with the standards in E3.6.1.18	P	D
(A33)	Culverts or fords more than 30m in length when measured parallel to the direction of water flow	D	NC
(A34)	Erosion control structure less than 30m in length when measured parallel to the direction of water flow complying with the standards in E3.6.1.14	P	D
(A35)	Jetties, wharves, pontoons	D	D
(A36)	Maimai complying with the standards in E3.6.1.19	P	P
(A37)	Sign, navigational aid, ski lane marker or buoy complying with the standards in E3.6.1.20	P	P
(A38)	Stock fences complying with the standards in E3.6.1.14	P	RD
(A39)	Stormwater or wastewater outfall complying with the standards in E3.6.1.14	P	D
(A40)	Structure solely under the bed including any associated drilling, tunnelling, thrusting or boring complying with the standards in E3.6.1.21	P	P
(A41)	Surface water intake structure	P	D
(A42)	Swing or pile mooring complying with the standards in E3.6.1.22	P	D
(A43)	Weirs, floodgates and flow monitoring devices complying with the standards in E3.6.1.23	P	P
(A44)	Any activities not complying with the general permitted activity standards in E3.6.1.1 or the specific activity standards in E3.6.1.14 to E3.6.1.23	D	NC
Reclamation and drainage and associated structures, bed disturbance or depositing any substance, diversion of water, incidental temporary damming of water, and discharges arising from the piping of a reclaimed waterbody associated with the following			
(A45)	Removal or demolition of an existing reclamation or drained area complying with the standards in E3.6.1.24	P	P
(A46)	Removal or demolition of an existing reclamation or drained area that does not complying with the standards in E3.6.1.24	RD	RD
(A47)	The operation, use, maintenance and repair or	P	P

	replacement of a lawfully existing reclamation or drained area on or before 30 September 2013		
(A48)	Extension of an existing lawful reclamation or drained area	NC	NC
(A49)	New reclamation or drainage, including filling over a piped stream	NC	NC
(A50)	Any activities not complying with the general permitted activity standards in E3.6.1.1 or the specific activity standards in E3.6.1.24	D	NC
Livestock access			
(A51)	Livestock access to a lake, river or stream, or wetland on production land that is grazed by a stocking rate equal to or exceeding 18 stock units per hectare complying with the standards in E3.6.1.25	P	P
(A52)	Livestock access to a lake, river or stream, or wetland on intensively grazed production land not complying with the standards in E3.6.1.25	RD	D
Activities in ephemeral rivers and streams			
(A53)	Any activity that is undertaken in, on, over or within the bed of an ephemeral river and streams complying with the standards E3.6.1.1	P	P
Surface water activities			
(A54)	Use of power-driven vessels on Lake Tomarata and Lake Spectacle during the period 1 September to 19 December (bird breeding season)	NA	Pr
(A55)	Use of power-driven vessels on Lake Slipper	NA	Pr
(A56)	Entry onto or passing across the surface water of a lake, river or wetland	P	P
(A57)	Beach and water recreation activities (including recreational fishing, shellfish gathering and game bird hunting) that do not require the long-term reservation of any surface water, the bed of lake, river or wetland for the exclusive use of that activity	P	P
(A58)	Competitive water skiing, power boat racing and similar group activities using powered craft	D	NC

Note 1

Reclamation consents are not required when installing culverts, fords and erosion protection structures.

Note 2

The Auckland Council Navigational Safety Bylaw 2014 also applies to surface water activities.

E3.5. Notification

(1) Any application for resource consent for an activity listed in Table E3.4.1 Activity table above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.

(2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

E3.6. Standards

E3.6.1. Permitted activities

All activities listed as a permitted activity in Table E3.4.1 Activity table must comply with all of the following permitted activity standards in E3.6.1.1 and any standards specified for the activity listed in standards E3.6.1.2 to E3.6.1.25.

E3.6.1.1. General standards

(1) The activity must not, after reasonable mixing, result in any of the following effects in receiving waters:

(a) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials;

(b) any conspicuous change in the colour or visual clarity;

(c) any emission of objectionable odour;

(d) the rendering of fresh water unsuitable for consumption by farm animals; and

(e) any significant adverse effects on aquatic life.

(2) The activity must not result in an increase of existing flood levels up to and including the 1 per cent annual exceedance probability (AEP) flood plain on land or structures other than that owned or controlled by the person undertaking the activity.

(3) The activity must not result in more than minor erosion or land instability.

(4) Machinery must not sit directly on the wetted cross-section of the bed at the time of the work.

(5) Explosives must not be used in the bed.

(6) Mixing of construction materials and refuelling or maintenance of equipment must not occur within 10m of the bed and best site management practice must be used to avoid contaminant discharging into the water.

(7) The activity must not destroy, damage or modify any sites scheduled in the Historic Heritage Overlay or the Sites and Places of Significance to Mana Whenua Overlay.

(8) The activity must not prevent public access along the lake, river, stream or wetlands.

E3.6.1.2. Standards for conservation planting

(1) The plant must be a non-invasive species in aquatic conditions.

(2) Plantings must be species native to the area unless it is not practicable to do so.

(3) The plant must not be a pest in a pest management strategy prepared under the Biosecurity Act 1993 or declared as an unwanted organism by a chief technical officer constituted under the same act.

E3.6.1.3. Standards for depositing any substance for the purposes of providing fish passage for culverts lawfully existing on or before 30 September 2013

(1) Ancillary structures and any deposited material which is not a component of the fish passage provision must be removed from the bed immediately following completion of the activity.

(2) The volume of fill material placed in the streambed shall not exceed $8m^3$ at the entry point and $8m^3$ at the exit point of the culvert per calendar year.

(3) Material deposited must comply with the definition of clean fill material and must not contain significant amounts of fine material.

(4) The activity must not cause more than minor bed erosion, scouring or undercutting immediately upstream or downstream.

E3.6.1.4. Standards for activities involving the disturbance and the associated sediment discharge

(1) All disturbance activities must not:

(a) divert any part of the lake, river or stream to a new course;

(b) result in the infilling of the existing bed; and

(c) lead to the instability of the bank in the immediate vicinity.

(2) Best practice erosion and sediment control measures must be implemented.

(3) Any materials used must not be toxic to aquatic organisms.

(4) Debris or other material must not be re-deposited in the bed of the lake, river or stream, or within the one per cent annual exceedance probability (AEP) floodplain.

(5) The bed must be restored to a profile that does not inhibit water flow or prevent fish passage upstream or downstream in waterbodies that contain fish.

E3.6.1.5. Disturbance and the associated sediment discharge for channel clearance of less than 100m

(1) The disturbance activity must comply with the standards in E3.6.1.4 above.

(2) The continuous length of disturbance and volume of disturbed material includes any parts of the work that may extend beyond the downstream boundary of a river, into the coastal marine area.

(3) Any bed disturbance must not exceed 100m in length.

(4) The volume of material disturbed must not exceed 1500m^3.

(5) A time period of two months or more must elapse before an area can be disturbed within 100m of a previously disturbed area in the same lake, river or stream.

E3.6.1.6. Disturbance and the associated sediment discharge for emergency works

(1) The disturbance activity must comply with the standards in E3.6.1.4 above.

(2) Emergency works include the clearance of trees, debris, sediment or other material deposited during storm or flood events where the material is causing or is likely to cause an immediate hazard to people or property.

(3) Machinery must not sit directly on the wetted cross section of the bed at the time of the work, unless there is no reasonably practicable alternative.

(4) The area of disturbance must be limited to the minimum area necessary to achieve the emergency works.

E3.6.1.7. Disturbance and the associated sediment discharge for extraction of material less than 50m^3 per year from the bed of a river or stream

(1) The disturbance activity must comply with the standards in E3.6.1.4 above.

(2) Extracted material must only be used on the property immediately adjoining the extraction site and must not be exported or removed from that location.

(3) There must be no sale of the extracted material.

E3.6.1.8. Disturbance and the associated sediment discharge for pest plant removal

(1) The disturbance activity must comply with the standards in E3.6.1.4 above.

(2) The eradication or removal of the plant must comply with an approved pest management plan.

(3) Prior to the activity starting the Council must be advised of the start and completion dates of the works.

(4) Where monitoring is required as part of an approved pest management strategy, the Council must be provided with a copy of the monitoring information collected.

Note 1

The use of agrichemicals is subjected to provisions in Chapter E34 Agrichemicals and vertebrate toxic agents.

E3.6.1.9. Disturbance and the associated sediment discharge for mangroves seedling removals and mangrove removal of up to 200m^2 immediately adjacent to existing lawful structures, infrastructure or drainage systems to enable their operation, use, maintenance, repair, and functioning

(1) The disturbance activity must comply with the standards in E3.6.1.4 above.

(2) Removed vegetation must be disposed of outside the river channel and areas adjacent to the coastal marine area.

(3) The removal must not involve any discharge of chemical herbicides into the river other than as provided for in an approved pest management strategy.

(4) Any visible disturbance to the substrate of the river bed must be remedied or re-contoured within seven days of completion of the works.

(5) Removal must be done by hand or by hand-held tools.

(6) Removal must not be in areas where mangroves are serving to mitigate erosion.

(7) Removal must not damage or disturb areas of salt marsh or seagrass.

(8) Written advice must be provided to the Council at least 10 working days prior to the works (other than for the removal of 30m^2 or less of seedling

by hand). The advice must include the location of the mangroves to be removed.

E3.6.1.10. Standards for works on structures lawfully existing on or before 30 September 2013 and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water

(1) All works on existing structures must comply with all of the following standards:

(a) during the activity bed disturbance upstream or downstream of the structure must not exceed 10m either side, excluding the length of the structure;

(b) best practice erosion and sediment control measures must be used to minimise any discharge of sediment, including sediment impounded behind an existing structure;

(c) debris or other material must not be re-deposited elsewhere in the bed of the lake, river or stream, or within the one per cent annual exceedance probability (AEP) flood plain;

(d) the activity must not cause more than minor bed erosion, scouring or undercutting immediately upstream or downstream; and

(e) the activity must not compromise the structural integrity of the structure.

E3.6.1.11. Works on structures lawfully existing on or before 30 September 2013 and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for the operation, use, maintenance, repair and upgrading of existing structures

(1) The activity must comply with the standards in E3.6.1.10 above.

(2) For all structures, except culverts, do not prevent the passage of fish upstream and downstream in waterbodies that contain fish, except that temporary restrictions to fish passage may occur to enable construction work to be carried out.

(3) For culverts do not have a perched entry or exit which prevents the passage of indigenous fish upstream or downstream in waterbodies that contain fish, except that temporary restrictions to fish passage may occur to enable construction work to be carried out.

(4) Do not cause more than minor bed erosion, scouring or undercutting immediately upstream or downstream.

(5) The structure must be maintained in a structurally sound condition at all times.

(6) Construction material and ancillary structures must be removed from the bed following completion of the activity.

(7) The activity must not change the area occupied by the structure.

E3.6.1.12. Works on structures lawfully existing on or before 30 September 2013 and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for the replacement, upgrading or extension of structures

(1) The activity must comply with the standards in E3.6.1.10 above.

(2) Structure length must comply with all of the following requirements:

(a) the total length of any extended structure must not exceed 30m measured parallel to the direction of water flow. This includes the length of any existing structure and the proposed extension but excludes erosion or scour management works; and

(b) any required erosion or scour management works must not exceed 5m in length, either side of the extended structure. Such works protruding into the bed do not require a separate consent as they are authorised under this rule.

(3) Construction material and ancillary structures must be removed from the bed following completion of the activity.

(4) Other than provided for by another rule, the activity must not increase the height or storage capacity of any existing dam.

(5) The structure must not prevent the passage of fish upstream and downstream in waterbodies that contain fish.

(6) Temporary restrictions to fish passage may occur to enable construction work to be carried out.

(7) For modification of a dam or weir:

(a) the modification must not commence until as much of the impounded sediment as is reasonably practicable has been removed from behind the structure; and

(b) best practice endeavours must be used to minimise the discharge of sediment impounded by the structure.

(8) For modification of a mooring:

(a) the mooring anchor or pile is not relocated on the bed; and

(b) the length of the mooring chain is not extended by more than 25 per cent.

E3.6.1.13. Works on structures lawfully existing on or before 30 September 2013 and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for the demolition or removal of existing structures

(1) The activity must comply with the standards in E3.6.1.10 above.

(2) The structure must be removed from the bed as far as practicable.

(3) Any remaining sections must not be a hazard to public access, navigation or health and safety.

(4) The bed must be restored to a profile that does not inhibit water flow or prevent the passage of fish upstream and downstream in waterbodies that contain fish.

(5) For removal of a dam or weir:

(a) the modification must not commence until as much of the impounded sediment as is practicable has been removed from behind the structure; and

(b) best practice endeavours must be used to minimise the discharge of sediment impounded by the structure.

E3.6.1.14. Standards for new structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water

(1) Structure length must comply with all of the following:

(a) the total length of any extended structure must not exceed 30m measured parallel to the direction of water flow. This includes the length of any existing structure and the proposed extension but excludes erosion or scour management works;

(b) any required erosion or scour management works must not exceed 5m in length, either side of the extended structure. Such works protruding into the bed do not require a separate consent as they are authorised under this rule; and

(c) a new structure must not be erected or placed in individual lengths of 30m or less where this would progressively encase or otherwise modify the bed of a river or stream.

(2) During construction bed disturbance upstream or downstream of the structure must not exceed 10m either side, excluding the length of the structure.

(3) The structure must not prevent the passage of fish upstream and downstream in waterbodies that contain fish, except that temporary restrictions to fish passage may occur to enable construction work to be carried out.

(4) The structure must not cause more than minor bed erosion, scouring or undercutting immediately upstream or downstream.

(5) Construction material and ancillary structures must be removed from the bed following completion of the activity.

(6) Other than provided for by another rule, the activity must not increase the height or storage capacity of any existing dam.

(7) The 1per cent annual exceedance probability (AEP) flood shall be accommodated by the structure and/or by an overland flow path without increasing flood levels up stream or downstream of the structure, beyond the land or structures owned or controlled by the person undertaking the activity.

(8) Calculation of flow rates will be made using the Auckland Council Technical Publication 108: Guideline for stormwater runoff modelling in the Auckland Region, April 1999.

E3.6.1.15. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for temporary structures

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) This activity does not need to comply with Standard E3.6.1.1(2).

(3) The temporary structure must be in place no longer than 14 days within any six month period.

(4) The temporary structure must accommodate a 5 per cent annual exceedance probability (AEP) flood event.

(5) The temporary structure must occupy the minimum area necessary for its purpose.

(6) For a temporary bridge, temporary piles may be located in the bed.

E3.6.1.16. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for bridges or pipe bridges

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) Piles must not be located in, on or under the bed of the lake, river, stream or wetland.

E3.6.1.17. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for new cables or lines that cross over a river or stream which do not require support structures in the watercourse

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) Structures in navigable watercourses the cable or line must not prevent navigation of vessels.

E3.6.1.18. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for culverts or fords less than 30m in length when measured parallel to the direction of water flow

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) The 1 per cent annual exceedance probability (AEP) flood shall be accommodated by the structure and/or by an overland flow path without significantly increasing flood levels up stream or downstream of the structure.

(3) Culverts must be constructed of inert materials with a design life of at least 50 years.

E3.6.1.19. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for maimai

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) The floor area must not exceed 10m².

(3) The structure must be founded on piles that protrude above the normal water level.

E3.6.1.20. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for sign, navigational aid, ski lane marker or buoy

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) Structures in navigable watercourses must not prevent navigation of vessels.

E3.6.1.21. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for structures solely under the bed of a lake, river or wetland

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) The structure must be installed without disturbing the bed.

E3.6.1.22. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for swing or pile mooring:

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) Structures in navigable watercourses must not prevent navigation of vessels.

E3.6.1.23. New structures and the associated bed disturbance or depositing any substance, diversion of water and incidental temporary damming of water for weirs, floodgates and flow monitoring devices:

(1) The activity must comply with the standards in E3.6.1.14 above.

(2) At all times when there is natural flow upstream of the weir an equivalent flow must be maintained downstream of the weir.

(3) The damming of water must not result in the loss, degradation or permanent flooding of any wetland.

Note 1

The damming of water behind a weir is provided for in Chapter E7 Taking, using, damming and diversion of water and drilling.

E3.6.1.24. Standards for the removal or demolition of a lawfully existing reclamation or drained area on or before 30 September 2013

(1) The Council must be notified of the proposed removal or demolition of the reclamation or drained area prior to work starting.

(2) The reclamation or drained area must be removed from the bed as far as practicable.

(3) Any remaining sections must not be a hazard to public access, navigation or health and safety.

(4) The bed must be restored to a profile that does not inhibit water flow or prevent the passage of fish upstream and downstream in waterbodies that contain fish.

Note 1

Reclamation consents are not required when installing culverts, fords and erosion protection structures.

E3.6.1.25. Standards for livestock access on production land that is grazed by a stocking rate equal to or exceeding 18 stock units per hectare

(1) Stock units are defined in the Farm Technical Manual – Trafford, G. and Trafford, S. (Eds.); 2011.

(2) Livestock must be excluded from any of the following:

(a) the full extent of any lakes, rivers, streams and wetlands, excluding any intermittent stream reaches, by 5 years after this rule becomes operative; or

(b) the full extent of any river or stream, including any intermittent stream reaches, by 10 years after this rule becomes operative.

(3) Livestock is not required to be excluded from ephemeral streams on any grazed production land.

(4) Livestock exclusion must be effective and exclusion methods may include a permanent fence or temporary hot-wire, dense vegetation and natural barriers that prevent livestock from gaining access to the waterway.

Note 1

For livestock access in the coastal marine area refer to F2 Coastal - General Coastal Marine Zone.

E3.7. Assessment – controlled activities

There are no controlled activities in this section.

E3.8. Assessment – restricted discretionary activities

E3.8.1. Matters of discretion

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary resource consent application:

(1) all restricted discretionary activities:

(a) the effects on ecological, hydrological, recreational, cultural and natural character values (existing and potential) of the lake, river or stream or wetland, and its catchment;

(b) the effects on any of the values in the following overlays:

(i) Natural Stream Management Areas Overlay;

(ii) Natural Lake Management Areas Overlay;

(iii) Urban Lake Management Areas Overlay;

(iv) Wetland Management Areas Overlay; and

(v) Significant Ecological Areas Overlay.

(c) the effects on downstream lake, river or stream or wetland environments arising directly from the activity, and any effects arising from any permanent modification in stream state or function caused by the activity;

(d) the offsetting of significant residual adverse effects that cannot be avoided, remedied or mitigated;

(e) the construction methodology, including the timing and duration of the activity and erosion and sediment controls;

(f) the ability of aquatic fauna to utilise habitats (including refugia) and move upstream and downstream, including the relevance and provision of fish passage;

(g) upstream or downstream flooding effects;

(h) the effects on any scheduled sites in the Historic Heritage Schedule;

(i) the effects on Mana Whenua values, and

(j) alternative methods that avoid, remedy or mitigate adverse effects of any proposal.

(2) Diversion of a river or stream associated with mineral extraction activities within the H28 Special Purpose - Quarry Zone:

(a) the need for the disturbance, structure, reclamation or drainage in the context of the mineral extraction activity.

E3.8.2. Assessment criteria

The Council will, in addition to the relevant policies, consider the relevant assessment criteria below for restricted discretionary activities:

(1) all restricted discretionary activities including diversion of a river or stream associated with mineral extraction activities within the H28 Special Purpose - Quarry Zone:

(a) whether the proposal has avoided, remedied or mitigated potential adverse effects, including hydrological, hydraulic and ecological effects;

(b) whether any adverse effects that cannot be avoided, remedied or mitigated have been adequately off-set;

(c) whether the ongoing provision of, or creation of, fish passage is necessary and how it has been provided;

(d) whether the proposal avoids adverse effects on any scheduled historic heritage place;

(e) whether any adverse effects on Mana Whenua values are avoided, remedied or mitigated;

(f) whether any proposal avoids more than minor bank erosion, stream bed erosion, and land instability effects;

(g) whether any proposal retains sufficient stream flow conveyance capacity for all flows from base flow to flood flows;

(h) whether any planting and enhancement is established in accordance with best practice, having regard to relevant industry or Auckland Council guidelines;

(i) whether the natural character of the stream is maintained or enhanced;

(j) the extent to which the stream's ecological functions are enhanced; and

(k) whether any adverse effects on Mana Whenua values are avoided, remedied or mitigated.

E3.9. Special information requirements

There are no special information requirements in this section.