

7.1 Introduction

This chapter:

- (a) Summarises the main wetland issues in Canterbury, the constraints on managing those issues and the directions suggested by those constraints.
- (b) Introduces a range of voluntary measures backed up by more focused regulation of wetland hydrology than s14 of the Resource Management Act (RMA) provides for. One of its main intentions is to begin raising awareness and motivating people to voluntarily retain wetlands and also to encourage them where possible to enhance and restore wetlands.
- (c) Puts the highest priority on the region's most depleted wetland types.

7.2 Background

7.2.1 Wetland characteristics

Although neither dry land nor truly aquatic—wetlands have elements of both—wetlands are a form of water body. Healthy functioning wetlands occupy an ecological transition zone. Plants and animals adapted to the permanent or intermittent wet conditions found in wetlands are sufficiently specialised to be a key to actually defining wetlands.

There are five distinct wetland types in Canterbury:

Estuarine—semi-enclosed areas, with or without tidal habitats inundated with salt or brackish water. Examples include Opihi Lagoon, Ashley Saltwater Creek Estuary.

Lacustrine—permanent or intermittent communities, usually within the margins of lakes over eight hectares or more than two metres deep and/or having boundaries formed by wave action. Examples include Lake Pearson, Lake Clearwater.

Palustrine—the most commonly occurring wetland type, generally bounded by dry land, includes swamps, marshes, bogs, tarns, fens, and red tussock areas. This category includes all wetlands that are not placed in other categories. Examples include Travis Wetland, Otukaikino Wetland, Valletta Swamp, and Ashburton Lakes wetlands.

Riverine—situated within the bed, terraces or nearby floodplains of rivers and streams. Generally shallower and slower flowing than the associated river or stream. Examples adjoin the upper Clarence and Ahuriri rivers.

Karst—underground and above-ground systems associated with limestone. Examples occur in Broken River.

There is wide variability within these types, some grade from one type to another, and there can be marked differences in management needs. Rather than dealing with wetlands on the basis of these types, this chapter focuses on the effects of activities on wetland values whatever their setting.

Overall, perhaps only 10% of the region's original wetlands as defined in the RMA remain (Canterbury Regional Policy Statement). A higher percentage remains in the high country (especially alpine areas), but in the lowlands, inland basins and along the coastal fringes the proportion is lower, in some cases markedly so.

In general, wetlands that still exist have retained higher naturalness where land use is less intensive, or where there are particular physical or climatic limitations. This has skewed the representativeness of what remains. Coastal, lowland, and inland basin wetlands are relatively more depleted both in quality and extent. This greater loss makes wetlands that remain in these areas even more significant.

Remaining wetlands are distributed across all forms of land ownership, including Crown land, the conservation estate, other public lands, such as council reserves, and private land including land owned by Ngāi Tahu hapu.

7.2.2 Intrinsic values

Wetlands have value in their own right, irrespective of any resource value. Over often long periods they evolved specialised flora, birdlife, aquatic and invertebrate fauna. With much less wetland area it is not only wetland plant communities that have diminished, but just as equally the other life forms that depend on wetlands as habitats.

The plants and their soil, water and invertebrate associations enable wetlands to perform unique hydrological and ecological functions. Many wetlands provide specialised nesting, breeding, and/or feeding sites for local and migratory birds and a range of other fauna.

The Canterbury Regional Policy Statement (CRPS) recognises the contribution wetlands make to Canterbury's regional sense of identity. Those wetlands that remain, and are in reasonable health, contribute a significant natural heritage dimension to the Canterbury landscape. Many of the above values must be recognised and provided for as matters of national importance (see Chapter 7.3.1 for a discussion of section 6 RMA).

7.2.3 Wetlands as natural resources

In addition to their intrinsic values, wetlands are often of direct practical value to people. They are integral parts of the water flow within catchments, in some cases acting like sponges to reduce run-off in wet periods and release water in droughts. In the process they reduce erosion and flooding. Wetlands are increasingly used to purify ("polish") water. Many wetlands are attractive features without which their surrounding landscapes would be the poorer. This characteristic sometimes has commercial value in relation to tourism.

Traditionally, Canterbury's wetlands were and many still are of special value to Ngāi Tahu as mahinga kai areas or wāhi tapu. Several have developed recreational significance for holiday making, fishing or shooting and as part of the general attraction of the outdoors. Wetland areas provide opportunities for recreation, study and research. Wetlands are a legacy to be passed on to future generations.

Given proper attention to their design, artificial wetlands can help compensate for reduced areas of natural wetland, and become an asset to wildlife and the landscape. They can also be a useful tool for treating contaminated water, including stormwater—although both advantages can seldom be maximised at the same time. Artificial wetlands used to store water may also have a role in drought preparedness, but again this purpose usually compromises their value as natural habitats.

Light grazing may be beneficial to some natural wetlands, depending on how it is managed and the types and rates of stocking.

7.3 Statutory framework

7.3.1 Resource Management Act

The statutory basis for Environment Canterbury's involvement with wetlands comes from the Resource Management Act 1991, the purpose of which is "to promote the sustainable management of natural and physical resources". Sustainable management is defined as "managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety". What people do must, however, sustain the potential of resources to meet the needs of future generations, safeguard life-supporting capacity, and avoid, remedy or mitigate adverse effects on the environment (RMA section 5).

Sections 6 (Matters of national importance), 7 (Other matters) and 8 (Principles of the Treaty of Waitangi) further condition these responsibilities. Their implications are discussed later in this chapter in conjunction with regional council functions. It is to the exercise of those functions that sections 6, 7 and 8 apply.

The RMA defines "wetland" as: "includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions". Water is defined as: "water in all its physical forms whether

flowing or not and whether over or under the ground; [it] includes fresh water, coastal water, and geothermal water; [but] does not include water in any form while in a pipe, tank, or cistern” (RMA section 2).

Ownership of water is vested in the Crown, and the RMA has no equivalent of section 85 when it comes to water. (Section 85 provides remedies where land-use controls are injurious to a person’s interests in that land.)

There has been a long history of controls on water, for example those in the RMA are little different from the earlier Water and Soil Conservation Act 1967. Wetlands are water bodies just as equally as streams, rivers or lakes. No person may take, use, dam or divert water in any of these water bodies unless allowed by a resource consent or a rule in a regional plan. (Limited takes for emergencies, stock or domestic use may be exempt.) In other words, nearly all activities that may affect the hydrology—that is, the water quantity and flows—in a wetland are regulated under section 14 of the RMA.

In addition, under section 15, no person may discharge any:

- (a) Contaminant or water into water; or
- (b) Contaminant onto or into land in circumstances which may result in that contaminant ... entering water ... unless the discharge is expressly allowed by a rule in a regional plan or a resource consent.

Like section 14, section 15 also applies to all water bodies, including wetlands. In essence a contaminant is any substance that when discharged into water, changes or is likely to change the physical, chemical or biological condition of that water.

Chapter 4 Water Quality deals with most of the direct effects of contaminants on water within or connected to wetlands. That chapter’s policy on riparian management also deals with some of the less direct effects, complementing the good wetland management that this chapter promotes. In certain circumstances wetlands, particularly artificial wetlands, may play an important part in actually removing contaminants from water. Any contaminant discharge not covered by rules in a regional plan continues to require resource consent under section 15.

It is a function of regional councils to administer sections 14 and 15. Other regional council functions include the integrated management of natural and physical resources, and preparing objectives and policies to deal with regionally significant effects of land use (section 30 RMA).

7.3.1.1 Matters of national importance

When Environment Canterbury exercises any of these functions under the RMA it must also recognise and provide for matters of national importance in section 6, have particular regard for other matters in section 7, and take into account the principles of the Treaty of Waitangi in section 8. Giving effect to these sections is not a function, but a duty. Sections 6, 7 and 8 direct the way Environment Canterbury exercises its functions. For example, when Environment Canterbury receives a consent application to drain a wetland, among the effects it must consider are any effects on indigenous biodiversity under section 6(c).

Just as importantly, section 6 also requires the natural character of wetlands to be preserved, outstanding landscape values to be protected, and attention given to the relationship of Māori with things of value to them.

Among the other matters in section 7 are the ethic of stewardship, the efficient use and development of natural resources, amenity values, intrinsic values, heritage values, the quality of the environment, finite characteristics of resources, and the habitats of trout and salmon.

Section 8 creates a strong duty to take into account the principles of the Treaty of Waitangi.

7.3.2 Instruments under the RMA

As noted in greater detail in Chapter 1 of the Proposed NRRP, the RMA provides for a hierarchy of planning instruments, with national, regional and district levels. In broad terms, lower level documents must not be inconsistent with those at higher levels. The RMA provides for national policy statements, but when this chapter was being prepared, although there was a national policy statement on biodiversity in preparation, no national policy statements had any official status. The NZ Coastal Policy Statement (NZCPS) is operative, and in addition to the operative CRPS, there are some operative regional and district plans. A number of other regional and district plans are in various stages of preparation.

The starting point for this chapter has been the CRPS, and to the extent that it is relevant, the NZCPS. Other Environment Canterbury regional plans, and district plans in the region have also been taken into account according to their relevance and the weight those in the earlier stages of preparation warranted. There are strong linkages between this chapter and chapters 4, 5, 6 and 8 of the Proposed NRRP.

7.3.2.1 NZ Coastal Policy Statement

Under the NZCPS it is a national priority to avoid or remedy adverse effects on wetlands in the coastal environment and estuaries, and to protect coastal wetlands¹.

7.3.2.2 Canterbury Regional Policy Statement

The CRPS has recognised a number of wetland issues as being of resource management significance to the region. For several important reasons the CRPS seeks to retain most of Canterbury's remaining wetlands, restore others and even create new ones. Chapter 8 includes the following objectives and policies:

CRPS Objective 1

Protection or enhancement of wetlands, particularly the gross area of wetlands in the region, their ecological integrity and functioning, their cultural, amenity and recreational values, and the preservation of their natural character.

The ultimate outcomes sought in this objective are very clear. At the most basic level there should be no further reduction of wetland area. There can be some give and take, making up unavoidable losses through restoration or wetland creation, but the gross area must be retained. To give effect to this objective it is necessary to define what areas constitute wetlands. This chapter puts in place processes to do this.

In achieving this objective, CRPS Policy 1 requires adverse effects on the following to be avoided, remedied or mitigated, and where practicable, wetland areas should be enhanced:

- (a) The ecological integrity and functioning of wetlands.
- (b) The natural character of wetlands.
- (c) The cultural, amenity and recreational values of wetlands.

CRPS Objective 3, Chapter 8, is also relevant. It focuses on Canterbury's characteristic original biodiversity.

¹ NZCPS Policy 1.1.2

CRPS Objective 3

Protection or enhancement of:

- (i) *Indigenous biodiversity, (including the survival of threatened species, communities and habitats, and species, biological communities and habitats unusual or characteristic of Canterbury);*
- (ii) *Indigenous ecosystem functioning; and*
- (iii) *Indigenous vegetation and habitats which contribute to the region's natural character.*

Other CRPS objectives and policies relating to water quality and quantity refer to the needs of present and future generations, protecting water quality, and retaining sufficient quantities for drinking water, ecosystems, amenity values and cultural values.

7.3.2.3 Environment Canterbury regional plans

A regional plan must not be inconsistent with, among other things, any other regional plan of the region. These include the other chapters of the Proposed NRRP as well as the other Environment Canterbury regional plans listed below.

How one regional plan relates to another regional plan depends on factors such as context and specificity. A plan that has dealt explicitly with a wetland issue is generally due more weight in that topic area than one where wetland issues are peripheral or absent altogether. Nevertheless, consents granted under any of the plans listed below may include conditions to protect wetlands.

Table WTL1 Relationship between other plans and Proposed NRRP Chapter 7

Existing regional plans	Relationship to Proposed NRRP Chapter 7
Transitional Regional Plan for the Canterbury Region (excluding Kaikoura District). Transitional Regional Plan for the Nelson-Marlborough Region.	These plans carry over by-laws and other statutory provisions, including rules relating to water quantity and quality, from the legislation and organisations that preceded formation of Environment Canterbury and the RMA. They permit some activities that may affect wetlands, such as minor takes of water, minor realignments of watercourses and minor discharges of contaminants. These rules will cease to have effect when rules on the same matters in this and other chapters of the Proposed NRRP become operative.
Land and Vegetation Management Regional Plan: Part I Kaikoura East Coast.	This plan contains controls on earthworks and vegetation clearance in the eastern part of Kaikoura District. Its principal purpose is soil conservation rather than to protect wetlands, but it does complement this chapter to some degree.
Land and Vegetation Management Regional Plan: Part II Port Hills.	This plan contains controls on earthworks and vegetation clearance covering the Port Hills area of Banks Peninsula. Its principal purpose is soil conservation rather than to protect wetlands, but it does complement this chapter to some degree.
The Proposed Land and Vegetation Management Regional Plan, Part III: Construction, Vegetation Clearance and Establishment, and Surface Land Disturbance Coastal Zone and Riverbeds South and Mid Canterbury.	This plan contains controls on activities in the beds and margins of rivers, and in the Coastal Hazard Zone, it will be superseded by Proposed NRRP Chapter 6.
The Proposed Land and Vegetation Management Regional Plan, Part IV: Land Management Fires, Canterbury Hill and High Country.	This plan regulates burning in and adjacent to wetlands. Its principal purpose is soil conservation rather than to protect wetlands, but it does complement this chapter to some degree.
Opihi River Regional Plan (OORP).	This plan is mainly concerned with controlling water allocation, the taking, damming and diversion of surface water, and contaminant discharges in the Opihi River and its tributaries. This includes dealing with any effects such activities may have on wetlands in the area to which it applies. Where rules in the ORRP have a similar effect to rules in this chapter, the rules in this chapter do not apply. The Opihi River mouth, which is in the CMA, comes under the ORRP as far as opening of the mouth

	is concerned, and under the Proposed Regional Coastal Environment Plan in other respects.
Proposed Waimakariri River Regional Plan (PWRRP).	This plan includes rules that apply to wetland drainage in the upper Waimakariri catchment and within the main stem of the river and its tributaries. Where rules in the PWRRP have a similar effect to rules in this chapter, the rules in this chapter do not apply. See the other chapters of the Proposed NRRP for guidance on the status of provisions in the Transitional Regional Plan in relation to the Waimakariri River Regional Plan.
Proposed Regional Coastal Environment Plan.	Estuaries and many other wetlands fall at least partly within the coastal marine area (CMA). In the CMA, the Proposed Regional Coastal Environment Plan, and not this chapter, controls activities that may affect wetlands.

Chapter 7 is affected by other chapters of the Proposed Canterbury Natural Resources Regional Plan:

- (a) Chapter 4, Water Quality has a number of rules pertaining to activities that involve contaminant discharges. These rules either restrict direct discharges into wetlands or require a separation distance between the activities and wetlands.
- (b) Chapter 5, Water Quantity has a number of rules pertaining to activities that involve the taking, use, damming or diversion of water. Some of these rules are restrictive, but there is also a rule to permit lawfully established activities to continue.
- (c) Chapter 6, Beds of Lakes and Rivers has a number of rules pertaining to activities within the beds and margins of lakes and rivers. Conditions in these rules protect moderate or higher significance wetlands.

7.3.2.4 District plans in the region

Rules in district plans generally deal with effects of the use of land, while in the wetland context, rules in regional plans deal with the water. Thus, the role of district plans in relation to wetlands is mainly to restrict activities such as earthworks, vegetation clearance and animal grazing. This complements the Proposed NRRP, which has rules governing activities affecting water, such as taking, use, damming or diversion, and discharges of contaminants.

Some district plans have also targeted wetland drainage or certain contaminant discharges as effects of the use of land, with the result that overlaps in jurisdiction can arise. Where this has occurred it is desirable to develop a process whereby people avoid having to apply to more than one consent authority for essentially the same activity.

7.3.3 Other documents and legislation

Provisions in other planning documents and legislation also have a bearing on the contents of this chapter.

- (a) Ngāi Tahu Claims Settlement Act 1998—some wetlands are part of the settlement, but in general this makes no difference. For example, this chapter's provisions still apply.
- (b) The Department of Conservation Arthur's Pass and Aoraki/Mount Cook national park management plans, and the Canterbury, Otago and Nelson-Marlborough conservation management strategies include many wetlands. This chapter's provisions generally complement those plans and strategies.
- (c) The plans or strategies of Ngāi Tahu, Fish and Game NZ regions, the regional plans of the adjoining Tasman and Marlborough unitary authorities, and the Otago Regional Council apply in various ways to wetlands. This chapter's provisions are not inconsistent with those plans and strategies, and generally complement them.

7.3.4 National and international guidance

Although without statutory force, the *New Zealand Biodiversity Strategy* (NZBS) is a blueprint for attaining national biodiversity goals by 2020. Its principal goal is to halt the present decline in indigenous biodiversity.