

Attachment 11: Complex Freshwater Fisheries Approval conditions

The application does not propose specific conditions for the Complex Freshwater Fisheries Approval (CFFA) because the Project will not prevent fish passage. NZTA considers that the conditions proposed for the regional consents will effectively manage effects on fish, in particular:

- 1) Condition C2.10 requires fish passage through culverts, with written confirmation the structure has been installed correctly, and inspection by a SQP within 1 year of installation.
- 2) Condition MP.8(j)-(m) requires the inclusion of protocols, guidance and approaches relating to fish management within the Ecological Management Plan. The EMP will be certified by ECan.
- 3) Condition O1.3 requires culverts be maintained to ensure fish passage does not reduce.

NZTA proposed to DOC by email (24 March 26) that Resource Consent Condition C2.10 could be replicated on the CFFA, with written confirmation provided to DOC, and a new condition could be imposed that requires NZTA to provide the fish management components of the EMP (Condition MP.8(j)-(m)) to DOC for comment before providing the EMP to CRC for certification. Structuring any conditions in this way (consultation with DOC and certification by CRC) reflects the direction in Reg 44 of the Freshwater Fisheries Regulations 1983 that fish facility determinations are “subject to the Resource Management Act 1991”.

Definitions and terms used

DOC Section 53 provision of conditions		NZTA Response
Abbreviation/term	Meaning	
Dispensation Holder	New Zealand Transport Agency Waka Kotahi	Should the panel consider conditions are required on the CFFA, this definition is appropriate.
DOC	Department of Conservation	Should the panel consider conditions are required on the CFFA, this definition is appropriate.
Wetland(s)	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.	This definition is not included in the NZTA suggested condition below, and therefore is unnecessary.
Working Day	A day of the week other than— (a) Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and (c) a day in the period commencing on 20 December in any year and ending with 10 January in the following year.	This definition is not included in the NZTA suggested condition below, and therefore is unnecessary.

Ref	DOC Section 53 provision of conditions	NZTA Response	NZTA proposed condition wording (if panel considers conditions are necessary)
	Native Fish Management and Monitoring Plan		
FF.1	(a) The dispensation holder must prepare a Native Fish Management and Monitoring Plan (NFMMP). The purpose of the NFMMP is to minimise effects on native freshwater fish prior to and during any required streamworks or works in a Natural Wetland which provides habitat for native fish. (b) The NFMMP must be prepared and implemented by a suitably qualified and experienced freshwater ecologist. (c) The NFMMP must include: - The duration of instream works; - The sequencing of instream works to avoid peak fish spawning and migration seasons, and working in wetted habitats as far as reasonably practicable; - Methods for directing native fish salvage and relocation, including site isolation procedure(s) and any site-specific requirements as appropriate; and - Methods of on-site euthanasia of any encountered rudd. (d) At least 90 Working Days before starting streamworks, the NFMMP must be submitted to DOC for certification that the NFMMP satisfies the purpose and requirements of FF.1(a)-(c). (e) The Dispensation Holder must not commence streamworks until the NFMMP has been certified under FF.1(d). (f) The Dispensation Holder may update the NFMMP by submitting the updated NFMMP to DOC for certification in accordance with FF.1(d). (g) The NFMMP must be implemented for the duration of streamworks and works in Wetlands. Advice Note: the resource consents for the State Highway 1 North Canterbury – Woodend Bypass (Belfast to Pegasus) Project include a condition that requires the preparation and implementation of fish management under the Canterbury Regional Council resource consent Ecological Management Plan. The Dispensation Holder may prepare one NFMMP that meets both the conditions of the resource consents and this Dispensation.	NZTA does not accept the suggested condition NZTA notes DOC’s request for a Native Fish Management and Monitoring Plan (NFMMP). However, the matters identified by DOC for inclusion in the NFMMP are already required to be addressed through the fish management components of the Ecological Management Plan (EMP) required by condition MP.8(j)-(m) of the regional resource consents. The EMP will be prepared by suitable qualified and experienced experts and certified by CRC. NZTA considers that requiring a separate NFMMP under the CFFA would duplicate the regional consent framework and create unnecessary overlap between approval regimes. In particular, NZTA does not support DOC certification of fish management matters that are already subject to CRC certification under the regional consents. NZTA has, however, proposed alternative wording should the Panel consider CFFA conditions are necessary. That condition would require the fish management components of the EMP are provided to DOC for review and comment prior to submission of the EMP to CRC for certification. This provides DOC with an appropriate opportunity to comment on native fish management measures, while requiring a single certification pathway through CRC and avoiding duplication. For the avoidance of doubt, NZTA also does not support the proposed 90 Working Day certification period. A 90 Working Day timeframe is disproportionate for the nature of the information being reviewed, and would create unnecessary programme risk, and is inconsistent with the efficient process anticipated under the FTAA. Accordingly, NZTA does not accept FF.1 as proposed by DOC. If the Panel considers a condition is required, NZTA prefers the alternative wording proposed.	Prior to submitting the Ecological Management Plan (EMP) required under Condition MP.8 of Resource Consent [insert number] to the Canterbury Regional Council (CRC) for certification, the dispensation holder must provide the following information to the Department of Conservation (DOC) for review and comment: (a) <u>Fish recovery protocols to provide procedures for the salvage and relocation of fish shall include the:</u> <u>Location where fish and aquatic organisms shall be salvaged and released;</u> <u>Methods to prevent fish entering the works area once defishing occurs</u> <u>Methods used to hold fish following capture and prior to release</u> <u>Measures to prevent fish impingement and / or entrainment during stream works.</u> <u>Roles and responsibilities for the ecologist/s, contractors and other people on site</u> <u>Measures to avoid or minimise times when fish are migrating or spawning;</u> <u>Deterrent, removal, recovery, relocation, and reporting methods prior to and post the commencement of construction activities;</u> <u>Measures to manage pest fish species and exotic fish.</u> (b) <u>Site-specific guidance of fish migration and spawning times;</u> (c) <u>Approaches to on-line stream works that, where such works cannot be avoided:</u> <u>Provide temporary fish passage where practicable, or where temporary fish passage is not practicable, provide fish salvage and relocation; and</u> <u>Manage the timing of works in respect of site conditions and to avoid peak fish migration and spawning seasons where practicable</u> (d) <u>Requirements for ecological oversight of the South Remnant Lake infilling and wetland offset construction</u> (a) The dispensation holder must prepare a Native Fish Management and Monitoring Plan (NFMMP). The purpose of the NFMMP is to minimise effects on native freshwater fish prior to and during any required streamworks or works in a Natural Wetland which provides habitat for native fish. (b) The NFMMP must be prepared and implemented by a suitably qualified and experienced freshwater ecologist. (c) The NFMMP must include: The duration of instream works;

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			b. The sequencing of instream works to avoid peak fish spawning and migration seasons, and working in wetted habitats as far as reasonably practicable; c. Methods for directing native fish salvage and relocation, including site isolation procedure(s) and any site specific requirements as appropriate; and d. Methods of on-site euthanasia of any encountered rudd. (d) At least 90 Working Days before starting streamworks, the NFMMP must be submitted to DOC for certification that the NFMMP satisfies the purpose and requirements of FF.1(a) (c). (e) The Dispensation Holder must not commence streamworks until the NFMMP has been certified under FF.1(d). (f) The Dispensation Holder may update the NFMMP by submitting the updated NFMMP to DOC for certification in accordance with FF.1(d). (g) The NFMMP must be implemented for the duration of streamworks and works in Wetlands. Advice Note: the resource consents for the State Highway 1 North Canterbury – Woodend Bypass (Belfast to Pegasus) Project include a condition that requires the preparation and implementation of fish management under the Canterbury Regional Council resource consent Ecological Management Plan. The Dispensation Holder may prepare one NFMMP that meets both the conditions of the resource consents and this Dispensation.																						
	Culverts																								
FF.2	(a) Fish passage must be provided through the following new permanent culverts, when each culvert is livened, in accordance with regulation 70 of the National Environmental Standard for Freshwater (NES-F) and the New Zealand Fish Passage Guidelines. <table><tr><th>Stream</th><th>Culvert location</th></tr><tr><td>McIntosh Drain</td><td>South of Fullers Road</td></tr><tr><td>Waihora Stream</td><td>State Highway 1</td></tr><tr><td>Taranaki Stream</td><td>Bob Robertson Drive</td></tr><tr><td>Taranaki Stream</td><td>Pegasus Interchange</td></tr><tr><td>Wilsons Drain</td><td>South of Cam River / Ruataniwha</td></tr></table> (b) Within 20 Working Days of the installation of a new permanent culvert: i. Written confirmation must be provided to DOC that each structure has been constructed in accordance with clause (a), and ii. The information required by Regulations 62, 63, and 69 of the NES-F must be provided to DOC. NZTA does not accept the suggested condition NZTA agrees that fish passage should be provided through the new permanent culverts listed in the condition. However, this outcome is already secured through condition C2.10 of the regional resource consents, which requires fish passage through these culverts when each is livened, and written confirmation following installation and inspection by a SQP within one year of installation. The culverts will be subject to ongoing maintenance obligations under Condition O1.3 which requires culverts to be maintained to ensure fish passage does not reduce over time. On this basis, NZTA considers that DOC’s proposed condition would duplicate the regional resource consent conditions and introduce additional monitoring and reporting requirements that are not necessary to manage effects on fish passage. Should a condition be required by the Panel, NZTA also considers that the wording should align with condition C2.10. The condition should refer to fish passage being informed by the NZFPG with reference to Regulation 70 removed. This reflects that resource consent is being sought under the NES-F because the culverts do not meet all the permitted activity (a) Fish passage must <u>shall</u> be provided through the following new permanent culverts, when each culvert is livened, in accordance with regulation 70 of the National Environmental Standard for Freshwater (NES-F) and <u>informed by</u> the New Zealand Fish Passage Guidelines. <table><tr><th>Stream</th><th>Culvert location</th></tr><tr><td>McIntosh Drain</td><td>South of Fullers Road</td></tr><tr><td>Waihora Stream</td><td>State Highway 1</td></tr><tr><td>Taranaki Stream</td><td>Bob Robertson Drive</td></tr><tr><td>Taranaki Stream</td><td>Pegasus Interchange</td></tr><tr><td>Wilsons Drain</td><td>South of Cam River / Ruataniwha</td></tr></table> (b) Within 20 Working Days of the installation of a new permanent culvert: i. Written confirmation must be provided to DOC that each structure has been constructed in accordance with clause (a), and ii. The information required by Regulations 62, 63, and 69 of the NES-F must be provided to DOC.	Stream	Culvert location	McIntosh Drain	South of Fullers Road	Waihora Stream	State Highway 1	Taranaki Stream	Bob Robertson Drive	Taranaki Stream	Pegasus Interchange	Wilsons Drain	South of Cam River / Ruataniwha	Stream	Culvert location	McIntosh Drain	South of Fullers Road	Waihora Stream	State Highway 1	Taranaki Stream	Bob Robertson Drive	Taranaki Stream	Pegasus Interchange	Wilsons Drain	South of Cam River / Ruataniwha
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	(c) A suitably qualified and experienced freshwater ecologist must inspect all permanent culvert structures to monitor fish passage success. Inspections must be carried out one year, two years and four years following completion of construction. The Dispensation Holder must provide inspection results to DOC annually by 30 June. (d) If, after the inspections at year one and year two, the suitably qualified and experienced freshwater ecologist concludes that fish passage is unlikely to be provided by the four year inspection without intervention, the suitably qualified and experienced freshwater ecologist must recommend a range of methods and interventions to support the provision of fish passage. The Dispensation Holder must implement the recommended methods and interventions, to the extent practicable. (e) Following completion of the final inspection of the structures required by FF.2(d), the suitably qualified and experienced freshwater ecologist must assess whether the structures have adequately provided for fish passage. If the suitably qualified and experienced freshwater ecologist concludes fish passage has not been adequately provided for, the suitably qualified and experienced freshwater ecologist must recommend a range of methods and interventions to support the provision of fish passage. The Dispensation Holder must implement the recommended methods and interventions until fish passage has been provided for. <i>Advice Note: data collected as part of the inspections required to be undertaken by the Dispensation Holder should include, but may not be limited to, the data required by the Fish Passage Assessment Tool (NIWA 2025), so that data can be uploaded to the Fish Passage Assessment Tool database.</i>	conditions of Regulation 70 and are therefore not in accordance with Regulation 70. Should the Panel consider a CFFA condition is required, NZTA considers the appropriate approach is to replicate condition C2.10 with written confirmation and inspection findings also provided to DOC. This would give DOC visibility of fish passage outcomes, while maintaining consistency with the regional consent conditions and avoiding additional or inconsistent obligations.	(c) A suitably qualified and experienced freshwater ecologist must inspect all permanent culvert structures to monitor fish passage success. Inspections must be carried out one year, two years and four years following completion of construction. The Dispensation Holder must provide inspection results to DOC annually by 30 June. (d) If, after the inspections at year one and year two, the suitably qualified and experienced freshwater ecologist concludes that fish passage is unlikely to be provided by the four year inspection without intervention, the suitably qualified and experienced freshwater ecologist must recommend a range of methods and interventions to support the provision of fish passage. The Dispensation Holder must implement the recommended methods and interventions, to the extent practicable. (e) Following completion of the final inspection of the structures required by FF.2(d), the suitably qualified and experienced freshwater ecologist must assess whether the structures have adequately provided for fish passage. If the suitably qualified and experienced freshwater ecologist concludes fish passage has not been adequately provided for, the suitably qualified and experienced freshwater ecologist must recommend a range of methods and interventions to support the provision of fish passage. The Dispensation Holder must implement the recommended methods and interventions until fish passage has been provided for. <u>(c) Within 1 year of the installation of a new permanent culvert:</u> i. <u>An SQP shall inspect all culverts to determine whether an appropriate in-pipe substrate has been retained and fish passage is provided, and in the event that such substrate has not been retained or fish passage has not been provided, the Consent Holder shall make other modifications to the culvert recommended by the SQP;</u> ii. <u>Written confirmation shall be provided to DOC of the SQP's inspection and findings under clause (i).</u> <i>Advice Note: data collected as part of the inspections required to be undertaken by the Dispensation Holder should include, but may not be limited to, the data required by the Fish Passage Assessment Tool (NIWA 2025), so that data can be uploaded to the Fish Passage Assessment Tool database.</i>
	Biosecurity		
FF.3	The Dispensation holder must comply with the Ministry for Primary Industry's "Check, Clean, Dry" cleaning method to prevent the spread of freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at http://www.biosecurity.govt.nz/cleaning . The Dispensation holder must regularly check this website and update their precautions accordingly.	NZTA does not accept the suggested condition NZTA supports appropriate biosecurity controls during works in and around waterways, However, these biosecurity measures are required under the Biosecurity Act 1993 and are addressed through Resource Consent Condition C2.5, which requires all works to follow Biosecurity New Zealand's	The Dispensation holder must comply with the Ministry for Primary Industry's "Check, Clean, Dry" cleaning method to prevent the spread of freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at http://www.biosecurity.govt.nz/cleaning . The Dispensation holder must regularly check this website and update their precautions accordingly.

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		hygiene procedures and ensure machinery is free of plant material and seeds before use. Inclusion of this condition on the CFFA serves no purpose in light of the above.	