



1 Guidance on general provisions

Part 2, subpart 10 contains the general provisions of the NES-PF. The general provisions are regulated under Regulation 5(1)(j) and must be complied with in addition to the specific requirements and conditions for the core *plantation forestry activities* and ancillary activities in the NES-PF (Regulation 5(2)). The general provisions cover the following activities and effects:

- Discharges of *sediment*, disturbances of the bed of a river or lake or of a *wetland*, and diversions of water in terms of the effects on *fish spawning*
- *Noise and vibration*
- Dust
- Indigenous bird nesting
- *Fuel* storage and refuelling.

This document provides guidance on each of the general provisions.

1.1 DISCHARGES, DISTURBANCES, AND DIVERSIONS

1.1.1 Overview of the general provision

Regulation 97 provides specific conditions to manage the effects of *plantation forestry activities* on *fish spawning* which is defined in the NES-PF as “*the bearing of live spawn or the deposit of eggs by fish*”. Regulation 97 incorporates the Fish Spawning Indicator into the NES-PF requirements and applies to the following types of discharges, disturbances and diversions that may be associated with certain *plantation forestry activities*;

- Discharge of *sediment* into water or to land in circumstances where it may result in it entering water;
- Disturbance of the bed or vegetation in the bed of a river or lake;
- Diversion of water; and
- Disturbance of a *wetland* of a specific size (including vegetation and soil disturbance).

Regulation 97 operates with the relevant conditions for each *plantation forestry activity* that may involve discharges, disturbances and diversions and sets out additional requirements to manage the effects of these activities on *fish spawning*. The *fish spawning* conditions in Regulation 97(4)-(5) are based on the Fish Spawning Indicator which is incorporated into the NES-PF in Item 9 of Schedule 2. Section 2.5.3 of the [NES-PF User Guide](#) and the MPI Fish Spawning Indicator webpage¹ provides general information on the Fish Spawning Indicator.

1.1.1 Permitted activity and conditions

Regulation 97 is a **regional council** function and **territorial authorities** have no functions in relation to discharges, disturbances and diversions under Regulation 97. Regulation 97(1) states that any **discharge** of *sediment* into water or to land in circumstances that may result in it entering water, **disturbance** of the bed or vegetation in the bed of a river or lake, or **diversion** of water associated with a *plantation forestry activity* is a permitted activity if:

- Regulation 97(3) and (4) relating to the Fish Spawning Indicator are complied with.

¹ Refer: <https://www.mpi.govt.nz/growing-and-harvesting/forestry/national-environmental-standards-for-plantation-forestry/fish-spawning-indicator/>



- The permitted activity conditions for the core *plantation forestry activity* or ancillary activity are complied with²:
 - *Pruning and thinning to waste* complies with regulations 19(2) and 20
 - *Earthworks* comply with regulations 24 to 33
 - *River crossings* comply with regulations 37 to 46
 - *Forestry quarrying* complies with regulations 51(2), 52, 54(3) and (4), and 55-59
 - *Harvesting* complies with regulations 63(2) and (3), 64, and 65 to 69
 - *Mechanical land preparation* complies with regulations 73(2) and 74
 - *Slash traps* comply with regulations 83(2) and 84 to 91.

Regulation 97(2) states that disturbance of a *wetland* (including vegetation or soil disturbance) associated with a *plantation forestry activity* is a permitted activity if Regulation 97(5) is complied with and the size of the *wetland* is:

- Greater than 100m² and less than 0.25 ha
- Greater than 100m² if the associated activity is *harvesting*.

A summary of the permitted conditions for disturbances of the beds of rivers and lakes and disturbance of *wetlands* is provided in Table 1. Sections 1.1.2 and 1.1.3 provide more detailed guidance on these conditions. For the exact wording of the conditions, refer to the NES-PF which can be accessed through the hyperlinks below.

Table 1: Permitted activity conditions for disturbance of beds and lakes and disturbance of *wetlands*.

Condition	Regional Council
Disturbance of bed of lake or river (Regulation 97(3) and (4))	Disturbance of the bed or vegetation in the bed of a <i>perennial river</i> or lake must not occur unless: <ul style="list-style-type: none"> • The Fish Spawning Indicator indicates that in the segment of river or lake marked in the Fish Spawning Indicator where the bed or vegetation in the bed would be disturbed that: <ul style="list-style-type: none"> ○ There is no presence of a fish species listed in Group A or B where the disturbance will occur; or ○ Group A or B fish species are present, but the proposed disturbance is not during the relevant <i>fish spawning</i> period; or • For the segment of the river or lake marked in the Fish Spawning Indicator where the bed or vegetation in the bed would be disturbed, a <i>suitably competent person</i> has: <ul style="list-style-type: none"> ○ Confirmed that the species observed do not spawn where disturbance will occur; or ○ Undertaken a fish survey and observed no presence of the species listed in Group A or B using the fish sampling/monitoring methods specified for rivers or lakes and referred to in Schedule 2 of the NESPF.
Disturbance of wetlands (Regulation 97(5))	Disturbance of <i>wetlands</i> must not occur unless: <ul style="list-style-type: none"> • The Fish Spawning Indicator indicates that: <ul style="list-style-type: none"> ○ There is no presence of mudfish species listed in Group B where the disturbance will occur; ○ Group B mudfish species are present, but disturbance is not proposed during the relevant spawning period; or

² This excludes *afforestation, replanting*, indigenous and non-indigenous vegetation removal.



Condition	Regional Council
	<ul style="list-style-type: none"> • For the <i>wetland</i> marked in the Fish Spawning Indicator where the disturbance would occur, a <i>suitably competent person</i> has: <ul style="list-style-type: none"> ○ Confirmed that the species observed do not spawn where the disturbance will occur; or ○ Undertaken a mudfish survey in accordance with the specified methodology in Schedule 2 of the NESPF and observed no mudfish presence.

Regulation 97(6) sets out three exclusions to what is considered to be **disturbance of the bed or vegetation in the bed of a perennial river** that are not subject to the conditions in Table 1 as follows:

- Vehicles using a *ford* to cross the wetted river at a rate of up to 20 axle movements per day (actual number of movements will depend on the size of the car or truck);
- Hauling logs over the bed of a river less than 3m wide where *butt suspension* is achieved, unless any species listed in Group B in the Fish Spawning Indicator is present; or
- Clearing a *slash trap*.

These exclusions only apply to disturbance of a *perennial river* – they do not apply to the disturbance of lakes or *wetlands*, or to other discharges or diversions regulated under Regulation 97. These exclusions are intended to provide for the operational requirements of certain *plantation forestry activities*. The three listed exceptions also typically have no adverse effects on *fish spawning*.

1.1.2 Disturbance of the bed of a lake or river

Regulation 97(3) states that disturbance of the bed or vegetation in the bed of a *perennial river* or lake must not occur unless:

- **Regulation 97(4)(a) applies** – this regulation applies when the Fish Spawning Indicator indicates that in the segment of river or lake where the bed or vegetation in the bed would be disturbed:
 - There is no presence of fish species listed in Group A or B of the Fish Spawning Indicator in the segment of the river or lake where the disturbance will occur; or
 - There are fish species listed in Group A or B in the segment of the river or lake where the bed or vegetation in the bed will be disturbed, but the disturbance is outside the relevant *fish spawning* period.
- **Regulation 97(4)(b) applies** – this regulation applies when a *suitably competent person* has:
 - Confirmed that the species observed do not spawn in the river or lake habitat where the disturbance will occur; or
 - Undertaken a fish survey³ and has observed no presence of any of the species listed in Group A or B of the Fish Spawning Indicator.

These regulations incorporate the Fish Spawning Indicator into the NES-PF requirements. They are intended to ensure that any disturbance of the bed of a *perennial river* or lake associated with a *plantation forestry activity* occurs outside the *fish spawning* periods of the following species identified in the Fish Spawning Indicator:

- **Group A** – salmonids or species with a high conservation status of ‘threatened’ or ‘at risk’;

³ In the case of a river, this must be in accordance with the documents referred to in item 10 of Schedule 2 ‘*New Zealand Freshwater Fish Sampling Protocols*’. In the case of a lake, this must be in accordance with the documents referred to in item 13 of Schedule 2 ‘*Introduction to Monitoring Freshwater Fish*’.



- **Group B** – species with a higher sensitivity to disturbance.

The species and their spawning periods can be found on the Fish Spawning Indicator webpage on the MPI website⁴.

Regulation 94(4)(b) recognises that the Fish Spawning Indicator is not based on perfect science and the location and presence of fish species can change over time. It enables a *suitably competent person* to confirm that the species indicated in the Fish Spawning Indicator are actually not present in that segment of the river or lake where the disturbance will occur. A *suitably competent person* for the purpose of Regulation 97 is defined in Regulation 97(6) as:

“a person who -

(a) has at least two years’ experience in use of the document referred to in item 10 of Schedule 2 (New Zealand Freshwater Fish Sampling Protocols), or in the techniques in the document referred to in item 13 of Schedule 2 (Introduction to monitoring freshwater fish), and has completed a specialist course in the identification of New Zealand freshwater fish; or

(b) has more than 10 years’ experience in use of the fish sampling techniques listed in the relevant document and in the identification of New Zealand freshwater fish”.

To demonstrate compliance with Regulation 97(4)(b), foresters should ensure they keep documentation of the advice from the *suitably competent person*. Regional councils may also want to consider developing a list of known freshwater fish specialists in their region that meet the NES-PF definition of a *suitably competent person* for the purposes of Regulation 97.

Non-compliance with Regulation 97(4) requires consent as a full discretionary activity under Regulation 97(8). In these situations, regional councils should consider the proposal against the relevant objectives and policies in their plan, such as those relating to aquatic ecosystems and fish populations in their region.

1.1.3 Disturbance of a *wetland*

Regulation 97(5) states that the disturbance of a *wetland* that is greater than 100m² and less than 0.25ha, or disturbance of a *wetland* that is greater than 100m² and the activity is *harvesting*, may only occur if:

- **Regulation 97(5)(a) applies** – the Fish Spawning Indicator indicates that:
 - There is no presence of mudfish species listed in Group B of the Fish Spawning Indicator in the *wetland* where the disturbance would occur; or
 - There are mudfish species listed in Group B in the *wetland* where the disturbance would occur, but the disturbance is outside the relevant *fish spawning* period.
- **Regulation 97(5)(b) applies** – a *suitably competent person* has:
 - Confirmed that the species observed do not spawn in the *wetland* where the disturbance will occur; or
 - Undertaken a mudfish survey⁵ in accordance with the specified methodology and has observed no presence of a mudfish species listed in Group B of the Fish Spawning Indicator.

⁴Refer: <https://www.mpi.govt.nz/growing-and-harvesting/forestry/national-environmental-standards-for-plantation-forestry/fish-spawning-indicator/>

⁵ In accordance with the document refer to in item 14 of Schedule 2 ‘A revised methodology to survey and monitor New Zealand mudfish’.



Regulation 97(5) essentially operates the same as 97(4) but applies to mudfish species and *wetlands* rather than the bed of *perennial rivers* and lakes. It states that disturbance of a *wetland* associated with a *plantation forestry activity* occurs outside the spawning periods for mudfish species list in Group B of the Fish Spawning Indicator (e.g. Canterbury mudfish, Northland mudfish, Brown mudfish, Black mudfish) otherwise a resource consent must be obtained. It also allows a *suitably competent person* to confirm that no mudfish species are present in the area of the *wetland* where the disturbance is proposed when the Fish Spawning Indicator indicates these species are present.

Non-compliance with Regulation 97(5) requires consent as a full discretionary activity under Regulation 97(9). In these situations, regional councils should consider the proposal against the relevant objectives and policies in their plan such as those relating to *wetlands*, aquatic ecosystems and fish populations in their region.

1.2 NOISE AND VIBRATION

1.2.1 Permitted activity and conditions

Noise and vibration is a general provision applying to all *plantation forestry activities* under Regulation 5(1)(j) and 5(2) of the NES-PF. It applies in addition to the general duty under section 16 of the RMA to avoid unreasonable noise.

Noise and vibration is a **territorial authority** function under the NES-PF. **Regional councils** have no functions in relation to *noise and vibration*. Regulation 98 states that *noise and vibration* associated with a *plantation forestry activity* is permitted if the activity complies with Regulation 98(2)-(4).

Regulation 98(7) includes a number of definitions that are specific to Regulations 98 and 99. It also clarifies the types of *noise and vibration* the NES-PF regulates and what it excludes as follows:

- **Includes** *noise and vibration* from forestry machinery, equipment and vehicles undertaking *plantation forestry activities*
- **Excludes:**
 - *Noise and vibration* from forestry vehicles on public roads
 - *Vibration* affecting heritage buildings or structures.

A summary of the permitted conditions for *noise and vibration* is provided in Table 2. Sections 1.2.2 and 1.2.3 provide more detailed guidance on these conditions. For the exact wording of the conditions, refer to the NES-PF which can be accessed through the hyperlinks in the table.

Table 2: Summary of general provisions for noise and vibration.

Condition	Territorial Authority
Noise (Regulation 98(2) and (4))	<p><i>Noise</i> must not exceed the following noise limits at any point within the <i>notional boundary</i> of any <i>occupied building</i> containing a <i>noise sensitive activity</i>⁶:</p> <ul style="list-style-type: none"> • Monday to Saturday - daytime 75 dB LAeq (15min) between 7am and 7pm, at any point where forestry noise is received for 20 weeks or less in a year • Monday to Saturday - daytime 70 dB LAeq (15min) between 7am and 7pm, at any point where forestry noise is received for more than 20 weeks in a year • Sunday daytime - 45 dB LAeq (15min) between 7am and 7pm • Night-time - 45 dB LAeq (15min) between 7pm and the following 7am

⁶ This excludes *occupied buildings* located in the plantation forest or an adjacent property under the same ownership or management.



	<ul style="list-style-type: none"> • Night-time - 75 dB <i>LAFmax</i> between 7pm and the following 7am; and • Blasting -120 dB <i>LZpeak</i> and blasting must only be conducted between 7am and 7pm on Monday to Saturday.
Vibration (Regulation 98(3))	<i>Vibration</i> must not exceed the guideline values in Tables 1 and 3 of <i>DIN 4150</i> ⁷ inside any building excluding <i>occupied buildings</i> located in the <i>plantation forest</i> or an adjacent property under the same ownership or management.

1.2.2 Noise associated with a plantation forestry activity

The permitted activity conditions for noise are consistent with the following New Zealand Standards for noise:

- *NZS 6801:2008* Acoustics – Measurement of Environmental Sound; and
- *NZS 6802: 2008* Acoustics – Environmental Noise.

Regulation 98(5) states that *noise* must be measured in accordance with *NZ6801* and assessed in accordance with *NZS 6802*. The *noise* limits in Regulation 98(2) also have the same meaning as *NZS 6801* – *LAeq*, *LAFmax*, *LZpeak*. These *noise* standards referred to in item 2 and 6 of Schedule 2 (material incorporated by reference) of the NES-PF and can be referred to on the New Zealand Standards website: <https://www.standards.govt.nz/> They are consistent with noise standards typically found in district plans.

The key parameters for where noise is to be measured from are the terms *notional boundary*, *occupied building* and *noise sensitive activity* which are all defined in Regulation 98(7) as follows.

<p>Noise sensitive activity</p> <p>(a) means any -</p> <ul style="list-style-type: none"> (i) residential activity, including activity in visitor accommodation or retirement accommodation (ii) educational activity (iii) health care activity (iv) congregation within any place of worship: (v) activity at a marae. <p>(a) does not include an activity if it was not lawfully established.</p> <p>Notional boundary means:</p> <ul style="list-style-type: none"> (a) a line 20 m for any side of a building. (b) the legal boundary, where it is closer to the building. <p>Occupied building means a building that is regularly occupied by one or more people.</p>

Councils will generally be familiar with the concept of measuring a *notional boundary*. The 20m distance for the *notional boundary* should be taken from the exterior face of the closest side of a building.

Each council will need to determine how the activity definitions in their plan align with the *noise sensitive activity* definition in the NES-PF. As *plantation forests* regulated under the NES-PF do not include *forest species* in *urban areas*, the most common type of *noise sensitive activity* to consider is likely to be rural residential dwellings. In some situations, it may be unclear whether an activity is a *noise sensitive activity*. For example, libraries are not included in the noise sensitive categories in the NES-PF definition, but these may have educational activities. In these situations, it is expected that foresters and councils use their

⁷ *DIN 4150-3:1999-02 Structural vibration – Part 3: Effects of Vibration on structures*, referred to in item 11, Schedule 2 of the NES-PF.



judgement to assess whether the activity is likely to be sensitive to noise from *plantation forestry activities* and whether it would typically be considered a *noise sensitive activity*.

It should generally be clear whether a building meets the definition of *occupied building* in Regulation 98(7). There may be some situations where it is unclear whether a building meets the 'regularly occupied' test. However, the noise limits in Regulation 98(2) only apply to *occupied buildings* that also contain a *noise sensitive activity*. The activities listed as *noise sensitive activities* generally involve regular use of a building therefore it is unlikely that an *occupied building* used infrequently would also meet the definition of a *noise sensitive activity*. Foresters and councils need to consider both these definitions when applying the noise limits in Regulation 98(2).

1.2.3 Vibration associated with a plantation forestry activity

Regulation 98(3) states that *vibration* associated with a *plantation forestry activity* must not exceed the guidelines values in Tables 1 and 3 of *DIN 4150* from inside any building, except buildings in the *plantation forest* or adjacent properties under the same ownership of management as the *plantation forest*. This guideline is incorporated into the NES-PF by reference in item 11 of Schedule 2 and is available for inspection and purchase at the Ministry for the Environment's head office.

Vibration must be measured and assessed in accordance with *ISO 4866: 2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures*. This standard is incorporated into the NES-PF by reference in item 12 of Schedule 2. It can be accessed here: <https://www.iso.org/standard/38967.html> and is available for inspection and purchase at the Ministry for the Environment's head office.

If there is a concern that *vibration* from a *plantation forestry activity* may not comply with the guideline values in Regulation 98(3), then specialist advice or site-specific assessment is likely to be required.

1.3 DUST

1.3.1 Permitted activity and conditions

The discharge of dust to air associated with a *plantation forestry activity* is regulated under Regulations 5(1)(j) and 5(2). Regulation 100 is a **regional council** and **territorial authority** function.

Regulation 100(1) states that the discharge of dust associated with a *plantation forestry activity* is permitted when Regulation 100(2) is complied with as follows:

'There must be no airborne or deposited dust beyond the boundary of the property from which the dust is sourced that is noxious, dangerous, objectionable, or offensive.'

1.3.2 Guidance on conditions

The permitted activity condition for the discharge of dust in the NES-PF is consistent with many dust rules in regional and district plans. The terms used in Regulation 100(2) are also consistent with those in section 17 of the RMA (duty to avoid, remedy or mitigate adverse effects).

The condition only relates to off-site effects of dust beyond the *boundary of the property*. The *boundary of the property* is defined in Regulation 100(3) as:

"includes the legal boundary of the property on which the plantation forestry occurs and any other properties adjoin that property under the same ownership or management".



This definition ensures that the dust condition in the NES-PF only applies where there may be adverse effects on a receiving property that is not owned or managed by same person generating the dust.

Many councils will have their own guidelines and protocols to determine whether adverse effects are *'noxious, dangerous, objectionable or offensive'*. The terms 'noxious' and 'dangerous' are relatively straightforward to assess and understand using common English definitions. Both terms imply that there needs to be some actual or potential harm to people or the environment as a result of the discharge of dust for it to be noxious or dangerous.

The terms 'offensive or objectionable' are more subjective. There is case law on the terms 'offensive or objectionable' in the context of sections 17 and 314 of the RMA, which can be summarised as follows:

- Whether an activity is offensive or objectionable should be measured by the effect it has on people and the reaction that people have to it⁸
- 'Offensive' and 'objectionable' refer to an action whose effect on an ordinary reasonable person would necessarily be considered offensive and objectionable⁹. An ordinary reasonable person should be someone who reflects New Zealand society as a whole, not just a segment of society¹⁰
- The Courts often use the FIDOL factors to help determine whether an activity is offensive or objectionable (Frequency, Intensity, Duration, Offensiveness and Location)¹¹
- If the activity serves an important resource management purpose, and represents the best way of achieving that purpose, it may be appropriate to say that the activity is not objectionable¹².

Regulation 100 is a function of both regional councils and territorial authorities. Where there is a concern that this regulation is not being complied with, it is important that the respective councils work together to avoid duplication of effort and focus on the effects most relevant to their functions under section 30 and 31 of the RMA (e.g. territorial authorities focus on nuisance/amenity effects associated with dust where regional councils consider public health issues and effects of dust on the natural receiving environment).

1.4 INDIGENOUS BIRD NESTING

1.4.1 Permitted activity and conditions

Indigenous bird nesting is a general provision applying to *plantation forestry activities* under Regulations 5(1)(j) and 5(2) of the NES-PF. Regulation 102 is a **regional council** and **territorial authority** function as both have roles in relation to indigenous biodiversity under sections 30(1)(ga) and 31(1)(b)(iii) of the RMA. Regulation 102 sets out procedures that must be in place when a *plantation forestry activity* is proposed in an area where certain indigenous bird species are nesting.

Plantation forests can provide a habitat to a number of threatened and valued indigenous bird species. Many forest owners have voluntary measures in place to protect these species, such as predator control and avoidance of operations at known nesting sites. However, these species can be adversely affected where their presence is not known and/or where appropriate procedures are not in place to identify and protect them.

⁸ *Zdrahal v Wellington CC* [1995] 1 NZLR 700; (1994) 2 HRNZ 196; [1995] NZRMA 289 (HC).

⁹ *Ibid*

¹⁰ *Watercare Services Ltd v Minhinnick* [1998] 1 NZLR 294; [1998] NZRMA 113; (1997) 3 ELRNZ 511.

¹¹ *Nelson CC v Harvey* [2011] NZEnvC 48, [2011] NZRMA 517.

¹² *Thompson v Davidson* EnvC C130/97



Regulation 102(1) states that the procedures in Regulation 102(2) must be complied with where a *plantation forestry activity* occurs where the following indigenous bird species are nesting:

- Any indigenous bird species with a classification of Nationally Critical, Nationally Endangered, or Nationally Vulnerable in Conservation Status of New Zealand Birds
- North Island brown kiwi (*Apteryx mantelli*)
- Eastern falcon (*Falco novaeseelandiae novaeseelandiae*)
- Bush falcon (*Falco novaeseelandiae ferox*)
- North Island weka (*Gallirallus australis greyi*).

Regulation 102(2) outlines the procedures that must be in place and followed when *plantation forestry activities* occur in areas where the above bird species are nesting as follows:

- (a) Confirm and recognise the presence of the indigenous bird species identified in subclause (1); and
- (b) On confirmation of presence, identify affected nest sites; and
- (c) Provide staff with training on recognising the presence of individual bird species if encountered during the plantation forestry activity; and
- (d) Avoid or mitigate adverse effects on affected nest sites and indigenous bird species.

In addition to the indigenous bird nesting regulations in the NES-PF, there are requirements in the Wildlife Act 1953 relating to the protection of wildlife that foresters need to be aware of and comply with.

1.4.2 Guidance on conditions

Compliance with Regulation 102 will require foresters to have procedures in place to identify where bird species listed in Regulation 102(1) are nesting and put the procedures outlined in Regulation 102(2) in place if the presence of nesting sites are confirmed. It is good practice for foresters to document the procedures that they intend to follow to meet the requirements of Regulation 102.

The list of bird species that are Nationally Critical, Nationally Endangered, or Nationally Vulnerable (Regulation 102(1)(a)) is based on the Department of Conservation's list of the Conservation Status of New Zealand Birds, which is incorporated into the NES-PF by reference (item 8, Schedule 2). This uses the New Zealand Threat Classification System to assess the conservation status of species according to the risk of extinction they face in New Zealand. The list of species can be found on the Department of Conservation website¹³.

Regulation 102 also extends to species which are not on the list of Nationally Critical, Nationally Endangered, or Nationally Vulnerable species but are vulnerable to the effects of certain *plantation forestry activities*. The kiwi and weka are ground dwelling species that are commonly found in *plantation forests*. Adverse effects on these species can generally be avoided or mitigated by appropriate procedures during disruptive phases of the forestry life-cycle and many foresters already have procedures in place to protect these species. Regulation 102 is intended to ensure all foresters consider the presence of these species and, where present, implement appropriate procedures to avoid or mitigate adverse effects on nest sites and indigenous bird species.

The NES-PF does not prescribe the procedures that must be in place to avoid or mitigate adverse effects on affected nest sites and indigenous bird species listed in Regulation 102(1). This is to allow foresters flexibility to adopt appropriate procedures based on the

¹³ Refer: <http://www.doc.govt.nz/nature/conservation-status/>



nature of their operation and the bird species present. It may involve training for staff to recognise the presence of species and procedures to be followed in the event that the species or nest is encountered.

Existing guidance that may be referred to when complying with Regulation 102 includes:

- Forest Owners Association’s ‘Rare Species’ website¹⁴
- The Kiwis for Kiwi’s ‘Forestry Management Guidelines, North Island Brown Kiwi in Exotic Plantation Forests’¹⁵.

1.5 FUEL STORAGE AND REFUELLING

1.5.1 Permitted activity and conditions

Fuel storage and refuelling is a general provision applying to *plantation forestry activities* under Regulations 5(1)(j) and 5(2) of the NES-PF. Regulation 104 is a **regional council** function and relates to *fuel* storage, refuelling and oil changing associated with a *plantation forestry activity*. Territorial authorities have no function in relation to *fuel* storage and refuelling.

Regulation 104(1) states that *fuel* storage, refuelling and oil changing are permitted activities if Regulations 104(2) and 104(3) are complied. These conditions are summarised in Table 3. For the exact wording of the conditions, refer to the NES-PF which can be accessed through the hyperlinks in the table.

Table 3: Summary of conditions for fuel storage and refuelling.

Condition	Regional Council
Permitted activity (Regulation 104)	<ul style="list-style-type: none"> • <i>Fuel</i> must not be stored, machinery must not be refuelled, and oil must not be changed in any location where <i>fuel</i> can enter water, including - <ul style="list-style-type: none"> • Within 10m of a: <ul style="list-style-type: none"> – <i>Perennial river</i>; – <i>Wetland</i> – <i>Lake</i> – <i>Outstanding freshwater body</i> – <i>Water body</i> subject to a water conservation order; or • With 30m of the coastal marine area • On, over, or in the bed of a <i>water body</i> or the coastal marine area; • Within a <i>water body</i> or coastal water. • <i>Fuel</i> must not be discharged into water, or onto or into the bed of a <i>water body</i>, or onto or into land in circumstances that may result in the fuel entering water.

1.5.2 Guidance on conditions

The conditions in Regulation 104 are expected to be straightforward to understand and comply with. Essentially, they require that *fuel* storage and refuelling does not occur near, on or within waterbodies and coastal waters. They also require that *fuel* is not directly discharged into water or onto land where it may enter water. Section 4.3 of the [NES-PF User Guide](#) provides general guidance on *setbacks* in the NES-PF which are relevant to Regulation 104(2)(a) and (b).

¹⁴ Refer: <http://rarespecies.nzfoa.org.nz/>

¹⁵ Refer: https://www.kiwisforkiwi.org/wp-content/uploads/2016/05/030.092-Forestry-Guidelines_-Final.pdf



Fuel is defined in the NES-PF as *'includes, but is not limited to, oil, hydraulic fluids, petrol, and diesel'*. This **list is not exhaustive** but it is expected that the majority of *plantation forestry activities* will use one of the fuels listed in the definition.