

# Developers warn septic tanks overflow meets definition of wetland, hurting housing supply



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Claiming the new national environmental statement on freshwater management could see hundreds of houses scrapped from future developments because ground with little or no ecological value now meets the definition of a wetland.

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Shortly before the 2020 election the Government gazetted a new national standard for freshwater management which Environment Minister David Parker said would "deliver on the Government's commitment to stop further degradation" of waterways.

However, a new, broad definition of wetlands has already been blamed for the refusal to consent the expansion of a quarry, prompting the Ministry for the Environment (MFE) to signal changes to grant a consenting pathway for the aggregates sector.

Now Parker has signalled to the Herald that it may examine whether a similar pathway may need to be created for residential developments, as he acknowledged warnings from the sector raised "a genuine issue".

MFE would look at new guidance to determine whether councils were over-interpreting the rules, but Parker said it was open to examining "whether we've over-defined what a wetland is".

Critics warned the changes appear to have led to unintended consequences which could reduce the supply of new housing.

Fulton Hogan executive Graeme Causer wrote to ministers at the start of February, warning that the standards would have "serious implications" for the viability of Milldale, a large residential development near Orewa, north of Auckland.

Causer said part of the site "is only wet due to being downhill of a septic tank overflow and surface water in rain events" but was considered a wetland under the new rules.

"It has no ecological value and no connection with any other water body and will become dry (other than when it rains) when the house served by the septic tank in question is connected to the reticulated sewer system we are installing for the Milldale development," Causer wrote.

However even after the septic tank is connected, the area "will still be considered to be a wetland under the [standards] as the definition of a wetland is linked to the commencement date".

The rules require there be no earthworks within 100 metres in any direction from a wetland, meaning even a small wetland could mean no building could take place over an area of approximately four hectares, Causer wrote, equivalent to around 60 dwellings.

Changing Milldale mean Fulton Hogan would need to exit its funding agreement for the development with Crown Infrastructure Partners, the Crown-owned company tasked with helping fund housing development.

A presentation by Fletcher Building submitted to ministers warned housing developments in Auckland and Canterbury were

Steve Evans, the head of Fletcher Building's residential and development business warned Auckland mayor Phil Goff in November that the impact on the housing market of the regulations was "significant and severe" and required urgent attention.

Evans said the company had identified "at least seven" sites in its portfolios that would be affected, reducing the number of houses that could be built by 10-15 per cent.

"Such reduction in yield is not only going to exacerbate the housing shortage further, but also drive up prices putting further pressure on housing affordability."

Parker has previously signalled that improving freshwater protection is a key goal of his political career. Even if the rules were too strict on what constituted a wetland now, the rules would not be moved too far.

"There'll probably be a disagreement as to where that grey line [of what is a wetland] is drawn and it might be drawn too strictly at the moment but it's also perhaps true that it shouldn't be drawn quite as loosely as some people would like," Parker said.

The fix for the problem would not be quick, however, with changes to the policy statement requiring a similar process to its establishment.

"When you don't get it quite perfect you've got to go through a near-identical process, which is quite complex, to fit it," Parker said.

"I can't by ministerial fiat just do it, I've got to run a process under the RMA to do it."

Parker said the changes did not affect already consented subdivisions. If development was being held up "it'll be right at the margins" and the response he was planning was appropriate.

However, warnings from the industry suggest work is already being held up, with developers holding off applying for consent or seeking to purchase land until the uncertainty was resolved.

Andrew Crosby, the chief executive of Universal Homes, said developers would be "stupid" to submit consent applications while situation remained uncertain, while sales of land for future development was being held up as companies grappled with how much could be built.

"Land sales, from landowners to developers, have stopped. It's holding up development already," said Crosby.

"We're looking at sites, right now, where the developable area is going down somewhere between 10 and 20 per cent. That means 10 or 20 per cent less houses on the site."

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