



Ministry for Primary Industries
Manatū Ahu Matua



To: Hon Todd McClay, Minister of Agriculture
Hon Andrew Hoggard, Associate Minister for the Environment
From: Claire McClintock, Manager Water, Biodiversity and Adaptive Farming Policy,
Ministry for Primary Industries
Nik Andic, Manager Natural Environment Policy, Ministry for the Environment

Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the first RMA Amendment Bill

Date	27 March 2024	MPI Reference	B24-0271
		MfE Reference	BRF-4541

Decision required	Date decision required by
YES <input checked="" type="checkbox"/> / NO <input type="checkbox"/>	27 March 2024

Purpose

- This briefing seeks your approval to lodge *CAB-407 Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the First RMA Amendment Bill* by 10:00 am on Thursday 4 April.
- This will ensure consideration at Economic Policy Committee (ECO) on 10 April, followed by Cabinet on 15 April.
- The attached version of the draft Cabinet paper has been updated following departmental and Ministerial consultation (**Appendix One**).
- We have also attached a regulatory impact statement to support Cabinet's consideration of the draft Cabinet paper (**Appendix Two**) and talking points you may wish to use (**Appendix Three**).

Key updates to the Cabinet Paper

Summary of Ministerial feedback

1. From 22 to 26 March 2024, you consulted with Ministers on a draft Cabinet paper on proposed amendments to Stock Exclusion and Intensive Winter Grazing Regulations.
2. You received feedback from New Zealand First. They requested that more information be provided in the Cabinet paper on how many councils already have their own rules

for intensive winter grazing (including Otago and Canterbury), and therefore whether repealing the regulations will leave a gap.

3. This is consistent with feedback received from Department of the Prime Minister and Cabinet and has been addressed in the attached draft Cabinet paper. The paper now highlights that in the longer term, farm planning can be used to manage the risk intensive winter grazing presents to freshwater, in a way that is tailored to the farm or region. There is also a noting recommendation in the Cabinet paper.

Summary of agency feedback

4. From 25 to 26 March 2024, officials consulted with the following departments on the draft Cabinet paper:
 - a) Department of Conservation (DOC);
 - b) Department of the Prime Minister and Cabinet (DPMC);
 - c) Land Information New Zealand (LINZ);
 - d) Ministry of Business, Innovation and Employment (MBIE);
 - e) Te Arawhiti; and
 - f) The Treasury.
5. Feedback has been received from DPMC and DOC and is summarised below.

Summary of feedback from the Department of the Prime Minister and Cabinet (DPMC)

6. DPMC has suggested being clearer about the net effect of proposals (that is, which stock exclusion requirements would continue to apply unchanged, and the extent to which stock exclusion and/or intensive winter grazing would go unmanaged as a result of proposals). We have provided revised text to address this throughout the attached draft Cabinet paper.

Stock Exclusion Regulations

7. DPMC has queried whether removing the requirement to exclude all stock from wetlands over 500 metres squared on low slope land is necessary, or poses an unnecessary risk to wetland habitats. That is, the change would mean dairy cattle could enter such wetlands as a result, and is not limited to non-intensively grazed beef cattle and deer where stated concerns appear to be most relevant.
8. We acknowledge the concerns raised and have provided options to address this in the attached draft Cabinet paper:
 - a) Option 1: Clarify that you will consider whether the requirement to exclude stock from wetlands over 500 metres squared on low slope land should be retained for other stock types in response to feedback received through Select Committee;
 - b) Option 2: Propose to retain the requirement to exclude stock from wetlands over 500 metres squared on low slope land *for stock types other than non-intensively grazed beef and deer*, noting this will mean retaining the map of low slope land for these purposes; or

- c) Option 3: Propose to retain the requirement to exclude stock from wetlands over 500 metres squared for stock types other than non-intensively grazed beef and deer, but amend it so that it applies on any land – not just low slope land – in order for the map of low slope land to be removed. Note this would mean other stock types need to be excluded from such wetlands on higher slopes, the impact of this has not been assessed and we have not included content to address this option in the attached draft Cabinet paper at this stage.
- 9. Regardless of your decisions on the above, we note that other requirements to exclude all stock from wetlands will continue to apply, that is:
 - a) from any natural wetland that is identified in a regional or district plan or a regional policy statement; and
 - b) from any natural wetland that supports a population of threatened species.
- 10. In the longer-term, we see farm plans being used to manage stock access to waterways, including wetlands, in a way that is tailored to the farm or region.

Intensive Winter Grazing regulations

- 11. DPMC also queried if removing controls in intensive winter grazing created a risk of permanent loss of topsoil and productive capacity.
- 12. We have reviewed available literature to the extent possible. This indicates winter grazing could pose risks to topsoil health and lead to permanent harm if poorly managed. However, this risk is unlikely to turn on a decision to repeal the intensive winter grazing regulations.
- 13. Intensive winter grazing, particularly in regions with wet conditions and hilly landscape, can exacerbate soil erosion and degradation due to several factors: increased soil compaction; trampling and vegetation removal; overgrazing; nutrient depletion; soil erosion by wind and water; loss of soil organic matter; and disruption of ecological processes.
- 14. Farmers can mitigate these impacts by implementing a range of sustainable grazing practices, for example, rotational grazing, rest periods for pastures, limited stock intensity or stand-off pads.
- 15. We note the above practices are largely unregulated at the national level (as part of intensive winter grazing or otherwise) and that the landowner's and environment's interests are strongly aligned in this context. This is because the loss of productive soil impacts on farm profitability, as well as causing sedimentation. Based on this initial analysis we do not think there is an externality to manage and officials have not altered our previous advice [B24-0235/BRF-4420 refers]. We refer to the attached regulatory impact analysis for more detailed analysis.

16. Alternatively, the proposal to remove winter grazing regulations can be altered to mitigate these risks to some extent, by retaining standalone requirements (that is, that are separate to the permitted activity status and conditions) relating to pugging and resow. These require individuals to:
 - a) take all reasonably practicable steps to minimise adverse effects on freshwater of any pugging that occurs on that land (Regulation 26A); and
 - b) ensure that vegetation is established as ground cover over the whole area of that land as soon as practicable after livestock have finished grazing the land (Regulation 26B).
17. We have provided optional text within the attached Cabinet paper to this effect. Note these requirements will not mitigate the effects of grazing on higher slopes.

Summary of feedback from the Department of Conservation

18. DOC's responsibilities include managing land, wildlife, freshwater fisheries and coastal wetlands, which often depend on upstream and adjacent land use practices. They have concerns the changes proposed could result in ongoing adverse effects on these resources, recreational and cultural values. Adverse effects of the proposed changes may be significant for some catchments, protected areas and species, and DOC would incur additional management costs as a result. DOC were also concerned the changes may impose additional costs on councils.
19. Overall, DOC considered that the proposed changes are a step backwards for freshwater and will impact adversely on New Zealand's image and primary sector marketing.

Intensive Winter Grazing regulations

20. DOC noted that current regulations provide a performance standard for, and alternatives to, applying for a discharge permit and that, without those, farmers practising winter grazing will again be vulnerable to enforcement action for illegal discharges.
21. DOC also noted that discharge permits for winter grazing are generally required, and the regulations allow for farm plans or better practice to avoid that. They noted that revocation of the winter grazing regulations would weaken farm planning as it will no longer meet this regulatory need.

Stock Exclusion Regulations

22. DOC considered that removing the map of low slope land and associated requirements will remove an important regulatory backstop for voluntary and publicly funded efforts to improve water quality and maintain remaining wetlands.

23. DOC noted that this change would be out of step with where the majority of the drystock sector is heading and the efforts of many groups and individuals to address the decline in freshwater quality and wetlands. They also noted the substantial funding provided towards stock exclusion since 2020.¹
24. DOC also considered that changes will remove certainty about where stock exclusion is and isn't required, which could expose some farmers to enforcement actions.

Updated Legal Implications section

25. Note that officials have updated the Legal Implications section of the attached draft Cabinet paper, following your decisions on B24-0235/BRF-4420.

¹ DOC noted more than \$100 million via Provincial Growth Fund and Jobs for Nature for riparian and wetland fencing, \$32 million plus for rowing catchment groups, and additional funds which include MfE's Freshwater Improvement Fund, DOC community conservation funding, and regional schemes such as Kaipara Moana remediation and Waikato / Waipa River restoration.

Recommendations

1. It is recommended that you:

- a) **Agree** to lodge CAB-407 Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the First RMA Amendment Bill (**Appendix One**) by 10:00 am Thursday 4 April for consideration at ECO Committee on 10 April, followed by Cabinet on 15 April.

YES / NO

- b) **Agree** to Inform officials, prior to lodging the Cabinet paper, whether you intend to include one of the alternative options for stock exclusion and wetlands, and if so, which option.

YES / NO



Claire McClintock
Manager – Water, Biodiversity and Adaptive
Farming Policy
Policy and Trade
27 March 2024

Hon Todd McClay
Minister of Agriculture

/ / 2024



Nik Andic
Manager – Natural Environment Policy
Ministry for the Environment

Hon Andrew Hoggard
Associate Minister for the Environment

27 March 2024

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Appendix One: CAB-407/ Sub24-0048 Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the First RMA Amendment Bill

Appendix Two: Regulatory Impact Statement

Appendix Three: Talking points

Stock exclusion

- The Associate Minister for the Environment and I are concerned that the map of low slope land and associated requirements are a one-size-fits-all approach, which will impose significant costs on lower intensity beef and deer farmers for limited environmental benefit.
- We propose to remove the low slope map and let regional councils and individual farmers decide where stock need to be excluded, based on risk and a catchment-focussed approach.
- It is important we remove these requirements quickly to avoid unnecessarily high compliance costs for farmers. Currently, beef cattle and deer on low slope land will be required to be excluded from waterways from 1 July 2025.

Intensive winter grazing

- The Associate Minister for the Environment and I have concerns around the high compliance burden the intensive winter grazing regulations present to farmers, particularly the slope condition. This approach is too inflexible and fails to account for local circumstances.
- Regional councils tell us there has been a significant improvement in winter grazing practices. Farmers have changed practices to achieve animal welfare and environmental benefits.
- We are proposing to remove all national intensive winter grazing regulations. Management of intensive winter grazing would instead rely on farmers voluntarily following good practice (that is, as outlined in the winter grazing module), complying with regional plan rules (where they exist) or meeting farm plan requirements (when rolled out in a region).
- We did consider removing only the slope condition from the regulations, however we think it is more practical to remove all the regulations to enable farmers to choose mitigations which work best for them.
- These changes will not affect requirements for the 2024 winter grazing season, however making these changes through the first RMA Amendment Bill will mean these requirements are removed for the 2025 season.

Additional messages

- The proposed changes are targeted quick win amendments which can reduce regulatory burden for farmers.
- The Associate Minister for the Environment and I intend to put out a joint press release outlining these changes later in April.