



**To:** Hon Todd McClay, Minister of Agriculture  
Hon Andrew Hoggard, Associate Minister for the Environment  
**From:** Julie Collins, Deputy Director-General, Policy and Trade, MPI  
Hayden Johnston, General Manager, Natural Environment Policy, MfE

## Briefing: Draft Cabinet paper for Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the First RMA Amendment Bill

<b>Date</b>	Click or tap to enter a date.	<b>MPI Reference</b>	B24-0235
		<b>MfE Reference</b>	BRF-4420

<b>Decision required</b>	<b>Date decision required by</b>
YES <input checked="" type="checkbox"/> / NO <input type="checkbox"/>	22 March 2024

### Purpose

1. On 6 March 2024, the Cabinet Economic Policy Committee (ECO) invited the Minister of Agriculture to submit a paper “to ECO as soon as practicable on ‘quick’ win amendments that could be made to the resource management system on sloped land”. [ECO-24-MIN-0022].
2. You have signalled you want to cut red tape and replace one-size-fits-all rules with local decision making. This includes a commitment to replace the low slope map and low slope rules for stock exclusion and winter grazing with more effective catchment-level rules to accommodate local and farm differences.
3. The Minister of Agriculture subsequently instructed officials to prepare a draft Cabinet paper (Appendix 1) that seeks agreement to:
  - a) remove the map of low slope land and associated requirements (regulation 14, 15 and 18) from the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations); and
  - b) address the condition specifying maximum slope for intensive winter grazing as a permitted activity in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the Standards).

4. This briefing provides a draft Cabinet paper for you to take to the Cabinet Business Committee (CBC) on 2 April 2024 (Appendix 1). Currently, the draft Cabinet paper contains three options for how you could achieve your commitment to replace the slope rule for intensive winter grazing. This briefing discusses those options in detail and seeks your decision on a preferred option. We will amend the Cabinet paper accordingly prior to lodging.
5. The policy proposals in this Cabinet paper are intended to be progressed through the first RMA Amendment Bill, which will be referred to a select committee in 2024.
6. A separate Cabinet paper signalling improvements to the existing freshwater farm plan (farm plan) system will also be taken to CBC, alongside the Resource Management Act 1991 (RMA) bill paper, on 2 April 2024.

### **Cabinet Paper Process**

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7. Subject to your feedback on the draft Cabinet paper, we anticipate that Ministerial consultation on this paper could begin on 25 March 2024. On this timeframe, the Cabinet paper would be lodged on 27 March 2024 for consideration at CBC on 2 April 2024.
8. This timeframe enables this paper to be considered alongside the first RMA bill paper, and the farm plan system paper, at CBC.

### **Stock Exclusion**

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#### Overview of the regulations

9. The Stock Exclusion Regulations are intended to reduce damage to waterways as a result of livestock accessing them, including contaminant losses (e.g. pathogens, sediment) and damage to the banks and beds of waterbodies.
10. The Stock Exclusion Regulations were gazetted in 2020 and took immediate effect for new pastoral systems, with compliance for existing farms required by July 2023 or July 2025, depending on stock type and practices.
11. The Stock Exclusion Regulations require certain types of stock to be excluded from waterways and apply to any person who owns or controls deer, pigs, dairy support cattle, dairy cattle and beef cattle. Since July 2023, farmers have been required to exclude dairy cattle, pigs, intensively grazed beef cattle and deer from lakes and wide rivers, and all stock from natural wetlands identified in a regional or district plan.
12. The map of low slope land (the map) is incorporated by reference in the Stock Exclusion Regulations and acts as a land-based trigger for requirements to exclude non-intensively grazed beef cattle and deer from waterbodies (and all stock in relation to wetlands). Specifically, there are three requirements associated with the map and these apply from 1 July 2025:

- a) regulation 14 requires non-intensively grazed beef cattle to be excluded from wide rivers and lakes on low slope land;
- b) regulation 15 requires non-intensively grazed deer to be excluded from wide rivers and lakes on low slope land; and
- c) regulation 18 requires all stock on low slope land to be excluded from wetlands over 500 m<sup>2</sup>.

*Process to date and recent changes*

- 13. There have been a number of implementation issues with the map since the introduction of the Stock Exclusion Regulations, particularly with regards to its accuracy and how it captures lower intensity farming systems, including high country systems where the costs of fencing waterways to exclude stock may be greater than the environmental benefits. Two sets of changes were made to address these issues.
- 14. In 2022, the map was amended to use a more advanced methodology; the requirements were focused on slopes between 0-5 degrees (instead of 0-10 degrees). At that time, it was presumed that farm plans would exclude stock on slopes between 5-10 degrees. A new altitude threshold was also added, so that requirements no longer applied over 500 metres. These changes excluded high country systems from fencing requirements and significantly reduced the amount of steeper land (i.e. over 10 degrees) captured by the map, from 11.5 per cent to 0.02 per cent.
- 15. In 2023, further consultation was undertaken on the option of using farm plans and/or regional plans as a full replacement for the map and associated requirements to exclude stock. Based on feedback received, our advice was that farm plans were a suitable alternative, albeit there was a risk of delayed environmental improvements due to rollout timeframes. This option was not progressed at the time.
- 16. Instead, the following amendments were made to the Stock Exclusion Regulations to further limit their impact on lower intensity farming systems:
  - a) an exception to the map for land managed by Department of Conservation and Land Information New Zealand;
  - b) an exception to the map and natural wetland requirements for the Upper Taieri Scroll Plain geographic region in Otago; and
  - c) technical changes.
- 17. Following these changes, stakeholder feedback has indicated that while the map is more accurate, issues remain for lower intensity farming systems (where the cost of excluding non-intensively grazed beef cattle and deer may be disproportionate to the environmental benefits).

### ***Proposal: Removing the map of low slope land in the Stock Exclusion Regulations***

18. The draft Cabinet paper (Appendix 1) sets out a proposal to remove the map and associated requirements from the regulations. This would amend the Stock Exclusion Regulations by removing the map of low slope land and associated requirements (regulations 14, 15 and 18).
19. Farm plans will instead determine whether relevant stock types need to be excluded, and enable requirements to be tailored to the farm taking into account the catchment context. This supports a risk-based approach and aligns with previous advice and improvements proposed for the current freshwater farm planning system [BRF-4435/B24-0238 refers].

#### *Key benefits*

20. Removing the map and associated requirements will mean that lower intensity beef cattle and deer farms will not be captured by the Stock Exclusion Regulations. This will remove potential financial burdens for these farms, as lower intensity farms tend to be stocked at lower rates, and the marginal environmental benefit of excluding stock from accessing waterways in these areas is lower (i.e. higher cost per unit of stock excluded).
21. This amendment will mean any requirements to exclude stock (e.g. in a regional plan and/or farm plan) can be tailored to the farm and catchment context. Farm plans are the preferred tool to manage the risk of stock entering waterbodies as they are able to consider the specific circumstances of a lower intensity farm, and what actions are cost-effective and pragmatic for that farmer.

#### *Key risks*

22. The map and associated requirements currently provide clarification around what areas need to have stock excluded. If the map is removed, it may not be clear to farmers when and where they need to exclude stock. This risk of uncertainty in the short-term can be mitigated by signalling that stock exclusion for beef cattle and deer will be managed through farm plans, with the map kept as a guidance tool.
23. As the farm plan system rollout and the development of regional plans is expected to occur across several years, this could also mean a potential delay in excluding stock from waterways. This would mean delayed environmental improvements for the farms captured by the map and not captured by other regulations (the map captures approximately 163,751 hectares of land), if farmers do not start to invest in appropriate stock exclusion solutions that suit their farm environment.

## Intensive Winter Grazing

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### Overview of the regulations

24. Intensive winter grazing is a high-risk farming activity for both animal welfare and the environment, if done poorly or too extensively particularly on steep slopes.<sup>1</sup> It is most common in Southland, Otago and Canterbury, where winter conditions make pasture growth slower but does occur elsewhere in New Zealand. We estimate approximately 86% of New Zealand's winter grazing area is located in these regions.
25. The intensive winter grazing regulations came into effect in November 2022 and applied through the 2023 winter grazing season (1 May to 30 September). There are three pathways for legally undertaking intensive winter grazing as set out in regulations 26 to 31 of the Standards:
- a) **Pathway 1** – permitted activity with conditions: intensive winter grazing activities are permitted if a farmer complies with default conditions (e.g. that slope is 10 degrees or less) set out in regulation. The RMA provides that permitted activities in the Standards cannot have significant adverse environmental effects, necessitating conditions like these.
  - b) **Pathway 2** – certified farm plan: intensive winter grazing activities are permitted if a farmer obtains a certified farm plan that ensures no greater adverse environmental effects than the default conditions.
  - c) **Pathway 3** – resource consent: a resource consent must be applied for if the default conditions can't be met, or a farm plan is not obtained.
26. Government agencies, councils and industry bodies have been running education campaigns and a voluntary good practice module was introduced in 2021. This increased awareness resulted in many farmers making significant changes to their practice. In the first season of the regulations, 278 resource consents were issued across the five key regions.<sup>2</sup> Council monitoring indicated non-compliance with

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<sup>1</sup> Grazing on winter forage crops has been shown to increase mean annual soil losses by roughly 1200 percent compared to the same land being left in a typical pasture grazing scenario (*Impacts of grazing on ground cover, soil physical properties and soil loss via surface erosion: A novel geospatial modelling approach, Journal of Environmental Management, Volume 287, 2021*). Sediment losses also increase substantially with slope. Ministry for the Environment analysis undertaken during the development of the regulations, and subsequent amendments, estimated sediment losses could double between 10 and 15 degree slopes.

<sup>2</sup> Southland, Otago, Canterbury, Waikato and Manawatū/Whanganui.

regulations has been minimal considering the scale of intensive winter grazing occurring.<sup>3</sup>

*Options to address the slope condition for intensive winter grazing through amending the Standards*

27. The current slope condition leaves some farmers with no compliance pathway except to apply for a resource consent, with associated costs and administrative burden.
28. To address this, you have signalled you want to remove the slope condition which needs to be met for intensive winter grazing to occur as a permitted activity. There is a reputational risk of allowing a permitted pathway for an activity that could have significant adverse effects on the environment.
29. We have identified three options for amending or removing the slope condition for intensive winter grazing, to deliver on your manifesto commitment (see Appendix 2 for details).
30. Regardless of the option you select, the changes will not eventuate until the 2025 winter grazing season. Winter grazing can be managed in the future through farm plans (further advice is below).
31. Each option has different risks, benefits and trade-offs, so we have highlighted these for you below.

**a) Option 1 – remove the slope condition from the list of default conditions.**

The first option aligns with your manifesto commitment to remove the slope condition. All other conditions would remain as default conditions to be met to permit intensive winter grazing without a resource consent. This would make it easier for farmers to meet permitted activity conditions. Removing the slope condition increases the risk of permitting significant adverse environmental effects, as sediment loss increases significantly with slope.

For this reason, we have provided alternatives (Option 2 and Option 3), which are other ways to achieve your desired outcome.

**b) Option 2 – remove the slope condition and insert new default conditions.**

This option aligns with your commitment to remove the slope condition and includes new default conditions to manage the environmental risk that may occur with the removal of the slope condition. This option mirrors the approach taken in Southland and would reduce the need for resource consents to allow intensive winter grazing on higher slopes but also places new conditions on farmers. It is complex and will be difficult to implement in the time available.

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<sup>3</sup> Original estimates indicated there could be in the order of 10,000 farms undertaking intensive winter grazing (Intensive Winter Grazing Regulatory Impact Statement 2022).

**c) Option 3 – remove all intensive winter grazing regulations.**

The third option removes all of the intensive winter grazing regulations and would instead rely on farmers voluntarily following good practice, complying with regional plan rules or meeting farm plan requirements. This option avoids allowing a permitted activity pathway that could have significant adverse environmental effects and is simpler to implement. There is a higher risk to the environment than Option 2, as without national regulations, councils will be relying on their own rules in regional plans to manage environmental impacts, and some councils do not have rules.

- 32. Removing the slope condition or regulations before farm plans are fully rolled out creates a regulatory gap for managing intensive winter grazing, increasing the risk to the environment from poor practice. This risk is considered to be relatively low in the short term because practice has already improved.
- 33. In any case, some councils are likely to rely on their own regional intensive winter grazing rules. Waikato and Horizons currently have no operative rules; Otago and Canterbury have rules that are generally similar to the current national conditions. In Southland, rules include a requirement for a Farm Environmental Management Plan and specific conditions (i.e. setbacks that vary depending on slope, see Appendix 2 for details).
- 34. Non-regulatory measures (e.g. education, extension, guidance) are in place and have increased awareness and improved intensive winter grazing practices in recent years. These will need to be continued to maintain and support good practice.

*Relationship to farm planning*

- 35. You can mitigate some of the risks above by working with the industry and by clearly signalling your intent to manage intensive winter grazing through certified farm plans in the future. Farm plans could ultimately be the best way to manage this activity and can be tailored to individual circumstances and catchment needs. They can, in the longer term, provide an effective means of managing on-farm risks to freshwater and assurance against poor practice. Improvements to farm plans are underway [BRF-4435 / B24-0238 refers].
- 36. s9(2)(f)(iv) [Redacted]
- 37. s9(2)(f)(iv) [Redacted]
- 38. Once farm plans are implemented successfully, the permitted activity pathway based on default conditions could be phased out altogether (if progressing Option 1 or Option 2).

This is consistent with officials' previous advice on the long-term role of farm plans in 2021, when the Government last consulted on winter grazing regulations.

## **Treaty Implications**

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39. The following issues have been identified for Ministerial consideration.

### *Treaty Settlements*

40. Some Treaty settlements, and related accords and relationship agreements, contain early engagement obligations on decision-makers when considering changes to national direction or legislation<sup>4</sup>, or policies relating to specific areas, such as freshwater, where an iwi area of interest is impacted.<sup>5</sup> These obligations relate to engagement requirements when developing policy and provides directives about matters that need to be considered when making decisions.

41. Some Treaty settlements also require local authorities to give effect to<sup>6</sup> or recognise and provide<sup>7</sup> for vision, policies or outcomes in particular documents developed under Treaty settlement arrangements. In some cases, this may still lead local authorities to develop or maintain planning requirements of the nature proposed to be changed.

### *Crown-Māori relationships and Māori rights and interests*

42. The proposals in this paper largely affect Māori freshwater rights and interests<sup>8</sup>. For these policy proposals, the likely relevant Treaty principles are partnership and good faith<sup>9</sup>, and the Crown's duty of active protection to Māori in respect of freshwater, which is a taonga<sup>10</sup>. The Waitangi Tribunal found that, in respect of freshwater, the principle of partnership may require a collaborative agreement between the Crown and Māori in respect of the making of law and policy.<sup>11</sup>

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<sup>4</sup> For example, the commitments in the Waikato River settlement arrangements; and specific engagement requirements in the Kingitanga Accord in relation to the development of policy and new legislation affecting the Waikato River and its catchment. Ngāti Maru's Relationship Agreement with the Ministry for the Environment also requires the Ministry to consult with Ngāti Maru when proposing to amend legislation administered by the Ministry and provide opportunities for the Trust to have input.

<sup>5</sup> For example, the relationship agreement between the Minister and Secretary for the Environment and Te Nehenehenui.

<sup>6</sup> For example, schedule 1 s4 Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>7</sup> For example, s 137 Ngāti Rangitahi Claims Settlement Act 2022.

<sup>8</sup> Engagement with Māori between 2014-2018 resulted in freshwater rights and interests being grouped under broad categories, including water quality, recognition of relationships with water bodies, governance and decision-making, and access and use for economic development.

<sup>9</sup> These principles were articulated by the Court of Appeal in the *Lands* case in 1987, *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641.

<sup>10</sup> The Te Tau Ihu Waitangi Tribunal stated that the Crown's duty of active protection is '*not merely passive and extends to active protection of Māori people in their use of their lands and waters to the fullest extent practicable*'. It notes that this requires honourable conduct by, and fair processes from, the Crown, and full consultation with those whose interests are to be protected (*Waitangi Tribunal, Te Tau Ihu Report, Vol 1, page 4*).

<sup>11</sup> Waitangi Tribunal 2019 Stage 2 Report Wai-2358.

## *Engagement*

43. Previous engagement on matters related to the proposals in this paper may have raised expectations of engagement on these proposals. Lack of engagement may have relationship implications. While there is not time to engage with iwi/Māori prior to the Bill's introduction, we recommend that Post-Settlement Governance Entities (PSGEs) and Māori entities are written to and informed of the changes being proposed ahead of introduction.
44. Although there has been no specific engagement with iwi (settled and unsettled) or Māori groups on these proposals in their current form, there has been previous engagement, as recently as 2023, which considered connected matters. The feedback through the four submissions received by Treaty partners can provide some insight into the previous views shared on this matter. A summary of this is provided at Appendix 3.
45. There has been general support from iwi/Māori for the stock exclusion regulations throughout the policy development and implementation process under the previous Government. Previous engagement indicates Māori may have concerns about the implications of these changes for the health of freshwater bodies. The potential impacts on the natural environment, and freshwater specifically, and how they can be addressed will need to be worked through.
46. With respect to intensive winter grazing, these proposals are particularly relevant in the South Island. Ngāi Tahu has demonstrated considerable interest in freshwater management issues through recent correspondence and current litigation proceedings. This can apply to both proposals. Given their farming and environmental interests, it would be useful to engage with Ngāi Tahu on how the proposals in this paper can be addressed in a way which could strike a balance between the various interests.

## **Consultation and engagement**

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### *Stock Exclusion Regulations engagement*

47. Proposals to remove the map and associated requirements in the Stock Exclusion Regulations, and instead relying on local planning and/or farm planning, were consulted on in 2023. At that time, feedback indicated:
  - a) the primary sector generally supported the farm plans option as an alternative to the map.
  - b) Treaty partners and Environmental NGOs expressed a preference for keeping livestock out of waterbodies and not making changes at that time. Their concerns included that the proposals would neither provide for Te Mana o te Wai nor achieve the objectives of the previous Government's reforms.
  - c) some regional councils identified farm plans as an appropriate alternative that provided more flexibility. However, other councils expressed concern around the capacity and capability of advisers within their region, and issues (at the time)

regarding the timing of the farm plan rollout, which could create delays in implementing stock exclusion measures.

*Intensive Winter Grazing engagement*

48. The most recent consultation on intensive winter grazing was undertaken in 2021 after regional councils (especially Environment Southland) and the primary sector identified challenges to successfully implementing the Standards's intensive winter grazing regulations.

49. At the time of consultation, submissions were divided on the slope threshold. Some submitters supported retaining the 10 degree threshold, while others sought a 15 degree threshold in line with the Southland Advisory Group (SAG) recommendation, and a small number sought up to 20 degrees. A higher threshold was suggested with other measures (e.g. critical source areas) in place, while others remained concerned with the practicality of the threshold which would therefore require a consent.

*Interagency consultation*

50. Other government departments have not been consulted on these policy matters or the attached draft Cabinet paper.

s9(2)(h) [Redacted]

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51. s9(2)(h) [Redacted]  
[Redacted]  
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s9(2)(h) [Redacted]

- [Redacted]

55. s9(2)(h) [Redacted]

[Redacted]

[Redacted]

**Financial, regulatory and legislative implications**

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- 58. No financial implications are associated with the proposals in this briefing.
- 59. It is intended that the proposals in this paper will be given effect through the first Resource Management Amendment Bill to be referred to a select committee in 2024.
- 60. Officials are preparing a Regulatory Impact Statement for these policy proposals.

**Next steps**

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- 61. The attached draft Cabinet paper includes optional text, subject to your decision on the options in this briefing on how to address the condition specifying maximum slope for intensive winter grazing, to be updated before Ministerial consultation and subsequent lodging at **10am Wednesday 27 March**.
- 62. We will provide your offices with talking points to support you taking this Cabinet paper to CBC on 2 April 2024, along with communications material to publicly announce the changes, including a joint Ministerial media release and stakeholder communication.

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<sup>12</sup> See interim decision of the Environment Court in *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 in relation to Environment Southland's Water and Land Plan. Noting this decision is currently subject of appeal.  
<sup>13</sup> *Legislation Design and Advisory Committee Legislation Guidelines* (2021), 12.2.

We suggest the decision on farm plans be tied together with the decisions on intensive winter grazing and stock exclusion.

63. You may wish to write to regional councils and industry bodies acknowledging their efforts over recent years to improve intensive winter grazing practice and encourage them to continue this important work. This would also provide an opportunity to request another end of season report, this time for 2023, as well as inform them of the proposed changes and the opportunity to provide feedback at the select committee stage of the Bill. We also suggest writing to PSGEs and other Māori entities informing them of the changes.

64. s9(2)(f)(iv) [Redacted]

## Recommendations

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1. It is recommended that you:

a) **note** the proposed timeframe for Cabinet paper lodgement on 27 March 2024, for CBC on 2 April 2024

**YES / NO / NOTED**

b) **agree** to circulate the attached draft Cabinet paper (updated based on your decision as per recommendation f) to your Ministerial colleagues for feedback as soon as possible

**YES / NO / NOTED**

c) **agree** to amend the Resource Management (Stock Exclusion) Regulations by removing the map of low slope land and associated requirements (regulations 14, 15 and 18)

**YES / NO / NOTED**

d) **note** Appendix 2: Description of options to address sloped land in relation to intensive winter grazing, which sets out the options, benefits, and risks for addressing sloped land in relation to intensive winter grazing in the Resource

Management (National Environmental Standards for Freshwater) Regulations 2020

**YES / NO / NOTED**

- e) **discuss** your preferred option for intensive winter grazing with your Ministerial co-lead
- f) **agree** to address sloped land in relation to intensive winter grazing in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 by:

i) **either** removing regulation 26(4)(b), which is the condition specifying maximum slope for intensive winter grazing as a permitted activity, from the Standards

**YES / NO / NOTED**

ii) **or** removing regulation 26(4)(b) as above, and amending 26(4) to vary setbacks and other conditions according to slope, in the Standards

**YES / NO / NOTED**

iii) **or** removing subpart 3 – Intensive winter grazing (regulations 26–31) from the Standards

**YES / NO / NOTED**

- g) **agree** to phase out regulations (e.g. over 18-24 months through a sunset clause), in recognition of the Government's intentions to progress changes farming planning and freshwater generally [*subject to your agreement to recommendation f)iii)*]

**YES / NO / NOTED**

- h) **note** that officials will update the draft Cabinet paper according to your decision in recommendation f)

**YES / NO / NOTED**

- i) **note** that officials will provide your offices with talking points for CBC on 2 April 2024

YES / NO / NOTED

- j) **note** your offices will be provided with communications material to publicly announce the changes, including a joint Ministerial media release and stakeholder communication

YES / NO / NOTED

- k) **agree** to write to stakeholders (including regional councils and industry bodies) and Treaty partners (including PSGEs and other Māori entities), informing them of the proposed changes

YES / NO / NOTED

- l) s9(2)(f)(iv) [Redacted]

YES / NO / NOTED



Julie Collins  
 Deputy Director-General  
 Policy and Trade, MPI

Hon Todd McClay  
 Minister of Agriculture

/ / 2024



Hayden Johnston  
 General Manager  
 Natural Environment Policy, MfE

Hon Andrew Hoggard  
 Associate Minister for the Environment

/ / 2024

[MPI Reference]

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Classification **1: Draft Cabinet paper: Amendments to Stock Exclusion and Intensive Winter Grazing Regulation through the First RMA Amendment Bill**

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[Attached separately]

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**Appendix 2: Description of options to address sloped land in relation to intensive winter grazing**

	<b>Option 1: Remove regulation 26(4)(b) from the Standards</b>	<b>Option 2: Remove regulation 26(4)(b) and amend regulation 26(4) in the Standards</b>	<b>Option 3: Repeal regulations 26 to 31 from the Standards</b>
<b>Description</b>	<p>Removes the condition setting maximum slope (26(4)(b) that states “the slope of any land under an annual forage crop that is used for intensive winter grazing must be 10 degrees or less, determined by measuring the slope over any 20 m distance of the land”.</p> <p>Otherwise leaves remaining conditions and framework in place.</p> <p><i>Result:</i> Intensive winter grazing is permitted where farmers can comply with remaining conditions, and otherwise needs a farm plan or consent. Subject to local decision making and planning, farm plans can manage intensive winter grazing activities.</p>	<p>Removes the condition setting maximum slope (like Option 1), but also varies setbacks and other conditions according to slope.</p> <p>This would mirror the approach taken by Environment Southland in their proposed Southland Water and Land Plan. Compared to current regulations, key differences in their proposed plan are:</p> <ol style="list-style-type: none"> <li>20 metre setbacks from water bodies or critical source areas for intensive winter grazing on land that is ≥10 degrees</li> <li>10 metre setbacks from water bodies for intensive winter grazing on land that is ≤10 degrees</li> <li>no intensive winter grazing can occur at an altitude greater than 800 metres above mean sea level</li> <li>Farm Environmental Management Plans are required, which must provide for specific practices: downslope grazing or a 20 metre ‘last-bite’ strip at the base of the slope; back fencing to prevent stock entering previously grazed areas; and transportable water troughs</li> </ol> <p>It is not feasible to implement requirements described in d) through a Farm Environmental Management Plan equivalent at this time (e.g. farm plans), while the Government considers more fundamental changes to farm planning. So these requirements would need be expressed as discrete conditions or requirements.</p> <p>Otherwise leaves remaining framework in place.</p> <p><i>Result:</i> Intensive winter grazing is permitted where farmers can comply with remaining conditions, and otherwise needs a farm plan or consent. Subject to local decision making and planning, farm plans can manage intensive winter grazing activities.</p>	<p>Repeals intensive winter grazing regulations entirely (all conditions and activity statuses).</p> <p><i>Possible variation:</i> Phase out regulations ( e.g. over 18-24 months through a sunset clause), in recognition of the Government’s intentions to progress changes farming planning and freshwater generally. Also recognises those farmers that have obtained resource consents, as well as practice changes and current levels of compliance.</p> <p><i>Result:</i> Intensive winter grazing is no longer regulated at the national level. Subject to local decision making and planning, farm plans can manage intensive winter grazing activities. Otherwise actions are voluntary/driven by non-regulatory efforts.</p>
<b>Key Benefits</b>	<ul style="list-style-type: none"> <li>More practical and, in relation to slope, it is possible to do winter grazing on slopes above 10 degrees without a farm plan or consent (subject to any existing regional rules).</li> <li>Retains a regulatory framework, and the ability to take enforcement action against poor practices. There is an associated incentive to improve practices.</li> </ul>	<ul style="list-style-type: none"> <li>More flexible in relation to slope – it is possible to do winter grazing on slopes above 10 degrees without a farm plan or consent (subject to any existing regional rules).</li> <li>Retains a regulatory framework, and the ability to take enforcement action against poor practices. There is an associated incentive to improve practices.</li> <li>s9(2)(h) [redacted]</li> <li>s9(2)(h) [redacted]</li> </ul>	<ul style="list-style-type: none"> <li>Reduced compliance costs attributable to regulation at the national level.</li> <li>More flexible and, in relation to slope, it is possible to do winter grazing on slopes above 10 degrees without a farm plan or consent (subject to any existing regional rules).</li> <li>Does not permit significant adverse effects on the environment, but does not regulate for them at the national level either.</li> <li>Recognises improvements in practices over recent years.</li> </ul>
<b>Key Risks</b>	<ul style="list-style-type: none"> <li>May permit significant adverse effects on the environment, and associated reputational risk. Our advice to date has been that sediment loss increases significantly with slope. s9(2)(h) [redacted]</li> </ul>	<ul style="list-style-type: none"> <li>s9(2)(h) [redacted]</li> <li>More complex to draft and deliver in the time available.</li> <li>Still involves regulating on the basis of slope, but in a more flexible way.</li> </ul>	<ul style="list-style-type: none"> <li>More environmentally permissive without national level rules as not all regions have specific rules to manage intensive winter grazing.</li> <li>Removes permitted activity pathways, reduced certainty for those that can comply.</li> <li>Removes the farm plan pathway, along with opportunities to integrate management with other matters through farm plans, and the associated incentive for farmers to adopt them.</li> <li>Does not retain a national regulatory framework. No ability to take enforcement action against poor practices, and no associated incentive to improve practices in the absence of regional rules.</li> <li>Reputational risk. Goes further than simply addressing concerns about slope – this may be perceived as significant.</li> </ul>

**Classification 3: Summary of feedback from Treaty partners from the Stock Exclusion Regulations from 19 June – 16 July 2023**

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Four written submissions were received from Treaty partners including:

- Te Tumu Paeroa – the Office of the Māori Trustee
- Te Rūnanga o Ngāi Tahu, and
- representatives for three of the 18 papatipu rūnaka of Te Rūnanga o Ngāi Tahu (Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga).

Officials also held an online workshop with Te Rūnanga o Ngāi Tahu and Te Ao Mārama.

The West Coast Regional Council consulted with their iwi partners, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu), who are mana whenua on the West Coast/Tai Poutini.

Overall, Treaty partners expressed a preference for keeping livestock out of water bodies and not making any changes at this time as:

- the proposed approaches would not provide for Te Mana o te Wai or achieve the objectives of the Essential Freshwater reforms
- there was insufficient time to consider the proposals, and further analysis and more time is needed, and
- the proposed approaches don't provide efficiencies or certainty for the public, farming community, councils or Ngāi Tahu Whānui.

In relation to specific proposals:

- Te Tumu Paeroa partially supported an exception based on stocking rate if it was able to account for regional diversity and seasonality in developing stock unit thresholds. It considered stocking rates are best evaluated and managed through the certified farm plan process.
- Te Rūnanga o Ngāi Tahu did not support defining lower intensity farming according to an annualised stocking rate for a farm. This would not capture changes in intensity during the year, and the whole farm approach does not take into account the use of individual paddocks. It considers an exception based on such a definition would put additional stress on water bodies that are already under stress due to other factors.
- Te Rūnanga o Ngāi Tahu was also concerned about farm plans replacing regulatory requirements, the certification and auditing standards they will be subject to, how they will work in practice, and whether they will achieve the freshwater outcomes sought.
- Hokonui Rūnanga see farm plans as an appropriate way to ensure compliance with stock exclusion regulations, including the flexibility to look at alternative options to

Classifi or enhance the mauri of water bodies where stock exclusion is impractical or ~~very~~ costly.

- Te Rūnanga o Makaawhio would like to see the waterways in its takiwa kept free of stock. It is aware of the fencing issues for the South Westland 'run of the river' low intensity farmers, and recognise the low impact of very low intensity grazing.
- All were opposed to an exception for lower intensity farming applying more broadly to natural wetlands.

Te Rūnanga, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga also suggested an alternative approach that would allow for an exception in particular cases, with input from mana whenua.

This alternative approach would mean retaining the status quo (i.e. the map and associated requirements to exclude stock continue to apply) but providing a pathway for stock owners to apply for an exception. It would require parameters around when they could apply for an exception, what must be considered/evidence may be used, and include input from mana whenua.

They indicated this could occur through a consenting process (preferred) or farm plans where a regional council makes a determination (i.e. rather than a certifier or auditor).

Officials note that regulations made under s360 of the Resource Management Act cannot specify activity status or consent conditions, or alter farm plan processes, without significant legislative changes. The recommended approach to implement an approach that is consistent with the underlying intent and rationale is to move the stock exclusion regulations from section 360 and align all national environmental standards under the same regulation making powers (section 43 of the RMA).

This is considered to be a practical approach that aligns rules across all regions while also recognising that there can be circumstances where an exception is needed, and this could be allowed by a regional plan or resource consent. This option would retain existing protection for waterbodies and provide for exceptions when an applicant could demonstrate that they will achieve an equivalent, or better outcome.