Ministry for the Environment
Manatū Mō Te Taiao

Ministry for Primary Industries
Manatū Ahu Matua

PROACTIVE RELEASE COVERSHEET

Minister	Hon David PARKER	**Portfolio**	Minister for the Environment
Minister	Hon Damien O'CONNOR	**Portfolio**	Minister of Agriculture
Name of package	Stock exclusion regulations – releasing a discussion document on developing an exception from the map of low slope land, for lower intensity farming	**Date to be published**	17 October 2023

List of documents that have been proactively released		
Date	***Title***	***Author***
17 May 2023	Stock exclusion regulations – releasing a discussion document on developing an exception from the map of low slope land, for lower intensity farming	MfE and MPI
Information redacted	**There are no redactions proposed**	

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Office of the Minister of Agriculture

Office of the Minister for the Environment

Chair, Cabinet Environment, Energy and Climate Committee

Stock exclusion regulations – releasing a discussion document on developing an exception from the map of low slope land, for lower intensity farming

Proposal

1 This paper seeks agreement to release a discussion document on proposals to amend the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations).

2 Proposals include:

2.1 an exception from the map of low slope land, incorporated by reference into the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations), for lower intensity farming;[1]

2.2 relying on certified freshwater farm plans instead of the map of low slope land and associated requirements[2] to address issues relating to the exclusion of various stock types on low slope land from water bodies,[3] once such plans become available.

Relation to government priorities

3 The Stock Exclusion Regulations are a core part of the Government's commitment to improving freshwater health (including wetland protection) through the *Essential Freshwater* work programme [CAB-18-MIN-0296].

4 The Stock Exclusion Regulations are made under the Resource Management Act 1991 (RMA). The Government's reform of the resource management system includes replacing the RMA with the Natural and Built Environment Act (NBA). Under the NBA, the Stock Exclusion Regulations will be transitioned into the proposed National Planning Framework, and NBE plans.

Background

5 In June 2018 Cabinet approved the *Essential Freshwater* work programme [CAB-18-MIN-0296], including to:

5.1 stop further degradation of New Zealand's freshwater resources;

[1] 'Lower intensity farming' has sometimes previously been referred to as 'extensive farming'. The terms have the same meaning.

[2] 'Associated requirements' are the provisions in the Stock Exclusion Regulations requiring various stock types on low slope land to be excluded from water bodies by specified dates – including the use of fencing or riparian vegetation to keep stock out of water bodies.

[3] 'Water bodies' in this paper refers to lakes, wide rivers (ie rivers with beds wider than 1 metre), and natural wetlands.

5.2 start making immediate improvements so that water quality is materially improving within five years; and

5.3 reverse past damage to bring New Zealand's freshwater resources, waterways and ecosystems to a healthy state within a generation.

6 The *Essential Freshwater* regulatory package was gazetted in August 2020 and came into effect on 3 September 2020. It included the Stock Exclusion Regulations, which regulate the access of cattle, pigs, and deer to water bodies. Stock entering water bodies causes a range of adverse effects on the environment, including increased contaminant losses (eg pathogens, nitrogen) and damage to the banks and beds of water bodies.

7 In relation to beef cattle and deer, Cabinet had earlier [DEV-20-MIN-0077, para 25]:

7.1 noted that in accordance with consultation feedback the policy for these regulations has been altered so that it does not apply to any low intensity beef and deer in the hill country; and

7.2 agreed that the regulations will apply to grazing dairy cattle and pigs on all terrain, intensive stock activities on all terrain, and beef cattle and deer on low slope land only.

Overview of the current Stock Exclusion Regulations

8 Any person who owns or controls stock is responsible for excluding them from water bodies, if required by the Stock Exclusion Regulations.

9 Requirements to exclude stock apply to dairy cattle, pigs, dairy support cattle[4], beef cattle, and deer. There are no requirements to exclude sheep or other stock.

10 For lakes, and rivers with beds more than a metre wide:

10.1 on any terrain, dairy cattle and pigs must be excluded immediately on any new pastoral system, and otherwise by 1 July 2023;

10.2 on any terrain, dairy support cattle must be excluded immediately on any new pastoral system, and otherwise by 1 July 2025;

10.3 on any terrain, intensively grazed[5] beef cattle and deer must be excluded immediately on any new pastoral system, and otherwise by 1 July 2023;

10.4 on low slope land, beef cattle and deer must be excluded immediately on any new pastoral system, and otherwise by 1 July 2025. Low slope land means those parts of a farm included within a map of low slope land, which is incorporated by reference in the Stock Exclusion Regulations.[6] Low slope land

[4] Dairy support cattle are defined in the Stock Exclusion Regulations as cattle that are farmed for producing milk but are not being milked (for example, because they are heifers or have been dried off); and are grazed on land that is not grazed by dairy cattle.

[5] 'Intensively grazing' is defined in the Stock Exclusion Regulations as break feeding, grazing on annual forage crops, or grazing on pasture that has been irrigated with water in the previous 12 months.

[6] The map of low slope land, incorporated by reference in the Stock Exclusion Regulations, identifies areas of land with a slope of 5 degrees or less, and of 500 metres or below in altitude.

is used as a proxy for areas that are likely to be more intensively farmed, even if beef cattle or deer are not 'intensively grazing' as defined.

11 Where these requirements apply, stock must be set back a minimum of three metres unless a permanent fence or riparian vegetation was in place when the Stock Exclusion Regulations commenced.

12 All of the above stock types must be excluded from natural wetlands:

12.1 identified in a regional or district plan or regional policy statement, immediately on any new pastoral system, and otherwise by 1 July 2023;

12.2 that support a population of threatened species, immediately on any new pastoral system, and otherwise by 1 July 2025;

12.3 that are 0.05 hectares (500 square metres) or more, but only on parts of a farm captured in the map of low slope land, immediately on any new pastoral system, and otherwise by 1 July 2025.

13 The Stock Exclusion Regulations are a minimum requirement, and regional plans and/or certified freshwater farm plans may be more stringent.

14 This paper deals with issues relating to paragraphs 10.4 and 12.

Recent changes to stock exclusion regulations

15 Feedback received from councils and others indicated that the Stock Exclusion Regulations required modification to support effective implementation. That is why we progressed work to address concerns that the map of low slope land was capturing areas of steeper slope (ie above 10 degrees) and lower intensity farming in the hill country.

16 In November 2022, Cabinet agreed to make improvements to the map of low slope land, including [ENV-22-MIN-0051]:

16.1 using a more advanced methodology to identify low slope land without averaging across land parcels;

16.2 focusing the map and associated requirements to exclude stock on slopes between 0 to 5 degrees, and relying on freshwater farm plans to address stock exclusion on higher slopes; and

16.3 applying an altitude threshold of 500 meters above sea level to the map, with any land above this threshold not being included in the map, but other requirements in the Stock Exclusion Regulations still applying – for example, the requirement to exclude beef cattle and deer that are intensively grazed (ie break feeding and grazing forage crops or irrigated pasture).

17 These changes were gazetted on 8 December 2022 and took effect on 5 January 2023.

Remaining issues with the map of low slope land

18 Cabinet noted that even with the above changes, the map of low slope land may still capture areas of lower intensity farming; and that at lower stocking rates, the marginal environmental benefit of excluding stock from accessing waterways is lower, for significantly higher costs [ENV-22-MIN-0051].

19 Cabinet therefore agreed to develop an exception from the requirement to exclude beef cattle and stock[7] from water bodies for farms that meet a threshold or definition for lower intensity farming, even where these are captured by the map of low slope land.

20 In doing so, Cabinet noted that this would not affect any other requirement to exclude stock, including where beef cattle and deer are intensively grazed, or where farm planning processes determine it is appropriate in the circumstances. It also noted that an exception may be inappropriate in some circumstances, for example where particularly sensitive water bodies are present.

21 Cabinet agreed to further consultation to determine the correct thresholds and measures to underpin the exception, and authorised us to take post-consultation decisions and instruct the Parliamentary Counsel Office to draft further amendments to the Stock Exclusion Regulations.

22 We now seek Cabinet's agreement to release a discussion document on proposals to address the map of low slope land's unintended capture of lower intensity farming.

Proposals to address the unintended capture of lower intensity farming

23 Officials from the Ministry for the Environment (MfE) and Ministry for Primary Industries (MPI) have developed two alternative proposals to address the unintended capture of lower intensity farming in the map of low slope land:

23.1 defining lower intensity farming for the purpose of an exception from the map of low slope land and associated requirements. This would be based on an annualised threshold of stock units per hectare, applied to the farm as a whole; <u>or</u>

23.2 using certified freshwater farm plans to address the unintended capture of lower intensity farming on the map of low slope land, once such plans become available.

24 Dairy cattle, pigs, dairy support cattle, and intensely grazed beef cattle and deer, would continue to be covered by the current Stock Exclusion Regulations, as the Regulations for those types of stock apply to all terrain.

Releasing a discussion document to support public consultation

25 We intend to release the discussion document (Appendix 1) to support public consultation and seek feedback on the proposed approaches as well as other technical issues with the Stock Exclusion Regulations.

26 In relation to the paragraph 23.1 proposal (stock unit threshold option), the discussion document seeks feedback on:

26.1 whether stock units per hectare is an appropriate way to define lower intensity farming, how it should be applied, and whether there are situations where it is not appropriate to apply such an exception; and

[7] Beef cattle and deer on low slope land; all stock for natural wetlands of 500 square metres or more.

26.2 ways to address difficulties with compliance, monitoring and enforcement of requirements that rely on stocking rates, including any information that might assist in overcoming those difficulties.

27 In relation to the paragraph 23.2 proposal (certified freshwater farm plan option), the discussion document seeks feedback on:

27.1 whether relying on certified freshwater farm plans is a viable alternative for farmers who have obtained them; and

27.2 what conditions this should be subject to (eg only being available in specific circumstances).

28 Freshwater farm plans regulations are expected to be in place for all regions by the end of 2025. However, the development and certification of a plan could then take another year, with actions not commencing until 2027, potentially delaying environmental improvements. Care would be needed to ensure that such a gap in actions commencing did not prevent stock exclusion measures being in place (for existing pastoral systems) by the current deadline of 1 July 2025.

Broader use of certified freshwater farm plans

29 The discussion document also seeks feedback on a broader proposal in relation to paragraph 23.2.

30 That proposal is whether certified freshwater farm plans – as they are progressively rolled out and come into effect on the ground over coming years – should *entirely* replace the map of low slope land and associated requirements as the instrument used to exclude beef cattle and deer on low slope land. This could address complexities associated with making an exception from the map for such stock being grazed at lower intensity on low slope land.

31 The practical effect would be that certified freshwater farm plans would determine whether non-intensively grazed beef cattle and deer on low slope land need to be excluded from water bodies for environmental reasons.

Natural wetlands

32 The discussion document also seeks feedback on the circumstances, if any, where it could be desirable to apply any of the above options, including the use of certified freshwater farm plans, to requirements to exclude stock from natural wetlands.

33 Requirements to exclude stock from natural wetlands identified in plans or regional policy statement, or those that support a population of threatened species, are not related to the map of low slope land. However, excluding stock from them may be similarly problematic when applied to lower intensity farming, and could lead to reduced weed management and poor outcomes for some wetlands.

Other issues

34 Finally, the discussion document seeks feedback on other issues of a technical nature with the Stock Exclusion Regulations, including:

34.1 whether the definition of a permanent fence in the Stock Exclusion Regulations is too prescriptive, and what other fences, or elements of a fence, should be

included in that definition. This definition informs whether existing fences need to be moved to comply with set-back requirements; and

34.2 whether amendments should clarify that the associated requirements to exclude various stock types do not apply to areas above 10 degrees in slope and still captured by the map.

Financial Implications

35 There are no financial implications arising from this paper. We will seek final decisions on the proposals presented in this paper following consultation, which may have financial implications for regulated parties in relation to the cost of fencing, and this will be assessed as part of regulatory impact analysis.

Legislative Implications

36 This paper seeks agreement to release the discussion document (Appendix 1) to support public consultation and to seek feedback on options to address the unintended capture of lower intensity farms as well as other issues with the Stock Exclusion Regulations. There are no legislative implications at this time.

Impact Analysis

Regulatory Impact Statement

37 An interim regulatory impact statement has been completed and is attached in Appendix 2.

38 A joint Ministry for the Environment – Ministry for Primary Industries Regulatory Impact Analysis Panel has reviewed this interim regulatory impact statement. The Panel considers that the interim regulatory impact statement partially meets the quality assurance criteria.

39 There are a number of information gaps in the interim regulatory impact statement which constrains the analysis (for example, around the cost and benefits of the proposed options). However, the interim regulatory impact statement highlights these gaps and the Panel considers the interim regulatory impact statement will support effective consultation and help provide this information.

Climate Implications of Policy Assessment

40 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as is not likely to influence gross stocking rates and therefore the threshold for significance is not met.

Population Implications

41 The proposals in this paper may have implications on a small proportion of farmers (ie those that are subject to the map and in charge of lower intensity farming systems). That is, proposals are expected to reduce costs compared to the status quo (eg cost of fencing). It is expected those cost reductions would apply to rural communities, including Māori landowners, where and when relevant stock is grazed in a lower intensity setting.

Human Rights

42 Proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

43 Public consultation is proposed to begin by early June 2023 and run for a period of four weeks. As well as written feedback, officials will run a series of workshops with the following groups: regional councils, primary sector bodies, environmental non-governmental organisations, iwi/Māori, Government departments and planners.

44 The Department of Conservation, Land Information New Zealand, the Department of Internal Affairs, the Crown Law Office, the Department of the Prime Minister and Cabinet, the Ministry of Justice, the Treasury, Te Arawhiti, and the Parliamentary Counsel Office were consulted on the proposals. Te Puni Kōkiri was informed of the proposals.

45 The Department of the Prime Minister and Cabinet, the Treasury and Te Puni Kōkiri provided comments which were subsequently integrated in this paper and the discussion document.

Communications

46 We propose to make a public announcement following Cabinet approval and release the discussion document for consultation.

Proactive Release

47 We propose to release this paper following Cabinet decisions and once public consultation has begun, including any redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Agriculture and the Minister for the Environment recommend that the Cabinet Economic Development Committee:

Background

1 **note** that the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations) are part of the broader *Essential Freshwater* regulatory package that came into effect on 3 September 2020 to improve freshwater health (including wetland protection);

2 **note** that in relation to beef cattle and deer, Cabinet had earlier:

2.1 noted that in accordance with consultation feedback, the policy for these regulations has been altered so that it does not apply to any low intensity beef and deer in the hill country; and

2.2 agreed that the regulations will apply to grazing dairy cattle and pigs on all terrain, intensive stock activities on all terrain, and beef cattle and deer on low slope land only;

[DEV-20-MIN-077, para 25]

Recent changes to the stock exclusion regulations

3 **note** that Cabinet agreed to changes to the map of low slope land in the Stock Exclusion Regulations to support effective implementation, and that these changes came into effect on 5 January 2023 [ENV-22-MIN-0051];

Remaining issues with the map of low slope land

4 **note** that following concerns that the map of low slope land may still capture areas of lower intensity farming, Cabinet agreed to:

4.1 develop an exception from the requirement to exclude beef cattle and stock from water bodies for farms that meet a threshold or definition for lower intensity farming, even where these are captured by the map of low slope land; and

4.2 undertake further consultation to determine the correct thresholds and measures to underpin the exception;

[ENV-22-MIN-0051]

5 **note** that Cabinet authorised the Minister for the Environment and the Minister of Agriculture to take post-consultation decisions and instruct the Parliamentary Counsel Office to draft further amendments to the Stock Exclusion Regulations [ENV-22-MIN-0051];

Addressing the unintended capture of lower intensity farming

6 **note** that the map of low slope land and associated requirements exclude beef cattle and deer on low slope land from water bodies;[8] [9]

7 **note** that officials have developed two alternative proposals to address the unintended capture of lower intensity farming in the map of low slope land:

7.1 defining lower intensity farming for the purpose of an exception from the map of low slope land and associated requirements, which would be based on an annualised threshold of stock units per hectare, applied to the farm as a whole; or

7.2 using certified freshwater farm plans to address the unintended capture of lower intensity farming on the map of low slope land, once such plans become available;

8 **note** that officials have developed a broader proposal, as to whether certified freshwater farm plans should entirely replace the map of low slope land and associated requirements as the instrument used to exclude beef cattle and deer on low slope land, once such plans become available;

[8] 'Water bodies' refers to lakes, wide rivers (ie rivers with beds wider than 1 metre), and natural wetlands.

[9] 'Associated requirements' are the provisions in the Stock Exclusion Regulations requiring various stock types on low slope land to be excluded from water bodies by specified dates – including the use of fencing or riparian vegetation to keep stock out of water bodies.

9 **note** that dairy cattle, pigs, dairy support cattle, and intensely grazed beef cattle and deer, would continue to be covered by the current Stock Exclusion Regulations, as the Regulations for those types of stock apply to all terrain;

Natural wetlands and certified freshwater farm plans

10 **note** that officials have raised whether there are circumstances, if any, where it could be desirable to apply proposals referred to in recommendations 7 and 8 to exclude stock from natural wetlands;

Other issues

11 **note** that officials have developed proposals to address other issues of a technical nature, such as the detail of fencing requirements;

Releasing a discussion document to support public consultation

12 **agree** to release the discussion document (Appendix 1) to support public consultation and seek feedback on options to address the unintended capture of lower intensity farming, as well as other issues with the Stock Exclusion Regulations;

13 **authorise** the Minister of Agriculture and the Minister for the Environment to make any necessary changes to the discussion document before consultation;

14 **note** that the Minister of Agriculture and the Minister for the Environment intend to report back to Cabinet to recommend final policy decisions as soon as possible after consultation concludes.

Authorised for lodgement

Hon Damien O'Connor
Minister of Agriculture

Hon David Parker
Minister for the Environment

Appendix 1 – Discussion Document

Stock Exclusion Regulations: A discussion document on developing an exception from the low slope map, for lower intensity farming

Appendix 2 - Interim Regulatory Impact Statement

Regulatory Impact Statement: Options to amend stock exclusion regulations

ENV-23-MIN-0014

Cabinet Environment, Energy and Climate Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Stock Exclusion Regulations: Release of Discussion Document on Developing an Exception from the Map of Low Slope Land, for Lower Intensity Farming

Portfolio **Agriculture / Environment**

On 1 June 2023, the Cabinet Environment, Energy and Climate Committee:

Background

1 **noted** that the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations) are part of the broader Essential Freshwater regulatory package that came into effect on 3 September 2020 to improve freshwater health (including wetland protection);

2 **noted** that in May 2020, the Cabinet Economic Development Committee, in relation to beef cattle and deer:

2.1 noted that in accordance with consultation feedback, the policy for these regulations has been altered so that it does not apply to any low intensity beef and deer in the hill country;

2.2 agreed that the regulations under section 360 of the Resource Management Act 1991 (RMA) (regulations) will apply to grazing dairy cattle and pigs on all terrain, intensive stock activities on all terrain, and beef cattle and deer on low slope land only;

[DEV-20-MIN-077]

Recent changes to the stock exclusion regulations

3 **noted** that in November 2022, the Cabinet Environment, Energy and Climate Committee (ENV) agreed to changes to the map of low slope land in the Stock Exclusion Regulations to support effective implementation, and that these changes came into effect on 5 January 2023 [ENV-22-MIN-0051];

Remaining issues with the map of low slope land

4 **noted** that in November 2022, following concerns that the map of low slope land may still capture areas of lower intensity farming, ENV agreed to:

4.1 develop an exception from the requirement to exclude beef cattle and stock from water bodies for farms that meet a threshold or definition for lower intensity farming, even where these are captured by the map of low slope land;

4.2 undertake further consultation to determine the correct thresholds and measures to underpin the exception;

[ENV-22-MIN-0051]

5 **noted** that ENV authorised the Minister for the Environment and the Minister of Agriculture to take post-consultation decisions and instruct the Parliamentary Counsel Office to draft further amendments to the Stock Exclusion Regulations [ENV-22-MIN-0051];

Addressing the unintended capture of lower intensity farming

6 **noted** that the map of low slope land and associated requirements exclude beef cattle and deer on low slope land from water bodies;

7 **noted** that officials have developed two alternative proposals to address the unintended capture of lower intensity farming in the map of low slope land:

7.1 defining lower intensity farming for the purpose of an exception from the map of low slope land and associated requirements, which would be based on an annualised threshold of stock units per hectare, applied to the farm as a whole; or

7.2 using certified freshwater farm plans to address the unintended capture of lower intensity farming on the map of low slope land, once such plans become available;

8 **noted** that officials have developed a broader proposal, as to whether certified freshwater farm plans should entirely replace the map of low slope land and associated requirements as the instrument used to exclude beef cattle and deer on low slope land, once such plans become available;

9 **noted** that dairy cattle, pigs, dairy support cattle, and intensely grazed beef cattle and deer, would continue to be covered by the current Stock Exclusion Regulations, as the Regulations for those types of stock apply to all terrain;

10 **noted** that officials have raised whether there are circumstances, if any, where it could be desirable to apply proposals referred to in paragraphs 7 and 8 to exclude stock from natural wetlands;

Other issues

11 **noted** that officials have developed proposals to address other issues of a technical nature, such as the detail of fencing requirements;

Releasing a discussion document to support public consultation

12 **agreed** to release the discussion document, attached as Appendix 1 to the submission under ENV-23-SUB-0014, to support public consultation and seek feedback on options to address the unintended capture of lower intensity farming, as well as other issues with the Stock Exclusion Regulations;

13 **authorised** the Minister of Agriculture and the Minister for the Environment to make any necessary changes to the discussion document before consultation;

14 **noted** that the Minister of Agriculture and the Minister for the Environment intend to report back to Cabinet to recommend final policy decisions as soon as possible after consultation concludes.

Rebecca Davies
Committee Secretary

Present:
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Willie Jackson
Hon Damien O'Connor
Hon David Parker (Chair)
Hon Jo Luxton
Hon James Shaw

Officials present from:
Office of the Prime Minister
Officials Committee for ENV