Ministry for the Environment
Manatū Mō Te Taiao

Freshwater consultation 2021: questions and answers

Answers to questions submitted either during or after the two public webinars (5 August and 1 September 2021) on freshwater farm plans, stock exclusion low slope maps, and intensive winter grazing

Te Kāwanatanga o Aotearoa
New Zealand Government

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Outcomes

1. Can you provide more detail on what needs to be considered for ecosystem health?

A: We do not have details at this stage, but we will provide guidance and weave this into the practice standards being developed for freshwater farm plan (FWFP) certifiers. A lot of the context relating to ecosystem health needs, and where this needs to be addressed in a farm plan, will be provided through the development of Freshwater Management Unit measures via Regional Council planning processes. Examples of the details that will need to be considered, referenced in a farm plan, include barriers to fish passage, habitats for freshwater species and protecting wetlands.

2. How will testing show an improvement in freshwater quality?

3. How much will the tests cost?

4. When will they need to be done by?

A: Monitoring of water quality and ecosystem health is the responsibility of regional councils. Websites such as https://www.lawa.org.nz/ provide baseline information on water quality. Fine-scale catchment studies also provide more detail at a community/farm level on how water quality can be shown to improve over time. Catchment groups also sometimes test water quality, collect information on freshwater invertebrate life and help educate the community on the state of local water. They can provide context as to how water quality is measured and shown to improve.

Water quality testing and monitoring programmes are costly, and programmes need to be designed to measure changes in water quality effectively. Many councils are upgrading their networks to provide more effective monitoring of water quality and ecosystem health. Catchment groups are extending their work into farmer-initiated monitoring projects. There are several monitoring approaches that will need to be further advanced to provide evidence on the effectiveness of farm planning and the actions farmers implement in their plans.

Farmers will not be required to test water quality under the freshwater farm plan regulations, however, many farmers are already doing this in the catchment group context.

5. Is there a plan to include increased funding for water quality and ecosystem assessment in catchments that have little water quality measurements?

A: Monitoring of water quality and ecosystem health is the responsibility of regional councils and is typically funded by either general or targeted rates.

There is no proposal under the freshwater farm planning work to provide additional financial support to a council function set by legislation.

6. What does measurability against proposed actions in a freshwater farm plan mean?

A: Farmers want clarity on what is required to implement a freshwater farm plan. Practice standards and supporting guidance for certifiers will be developed to specify required actions, as well as what information is needed to show that actions have been completed. For example, irrigation equipment servicing records, date-stamped photos of riparian planting, and staff training certificates could be provided as part of an audit to demonstrate compliance with the plan.

7. If an action is needed to achieve outcomes/values, how will the economic costs to a landowner be considered? Or will they?

A: We will develop criteria so that freshwater farm plan certifiers can assess that freshwater farm plan actions and timeframes are reasonable. This will consider the balance between environmental outcomes and economic costs and ensure consistency between certifiers working in the same or similar catchments.

8. To date, data collected on farm environment plans (FEPs) in Canterbury shows nitrate levels are still increasing and water quality within surface water and groundwater is continuing to decline, with previously pristine lakes now in serious trouble. If the new Freshwater Farm Plans are modelled on the Canterbury FEPs, how do the Ministry for Environment (MfE) and the Ministry for Primary Industries (MPI) propose to prevent the same situation from happening in the rest of the country?

A: If environmental outcomes are not being achieved, additional changes will need to be made, which are progressed through the Regional Council freshwater planning processes, particularly the Fresh Water Management Unit (FMU) establishment. FMU planning processes identify values and objectives and then set limits (such as nitrate levels). This includes putting in place catchment limits, farm plan requirements (these are just one tool) and funding initiatives.

We have already learnt from the Canterbury farm planning experience that including a new certification step to ensure a farm plan is fit for purpose is better than trying to fix this during an audit.

9. How will outcomes be described? Will it be about the farm practice or the outcome, eg, no mud from winter grazing or no mud run-off enters waterways?

A: Table 1 on page 22 of the discussion document includes proposed options for regulated outcomes in the freshwater farm plans regulations.

The preferred approach is to state outcomes at a general level with separate supporting guidance. Proposed outcomes reflect catchment context; ecosystem health and farm practices being responsive to the needs of the environment. Outcomes at a farm level will be to mitigate such things as loss of sediment by riparian fencing or changing farm management approaches.

10. Approximately how much land will be covered by freshwater farm plans? Is there much land along the river under other land ownership that will not require these plans? How will they contribute to the objectives of national and regional plans?

A: We don't yet have that figure but the size threshold for requiring a freshwater farm plan is 20 hectares for most farms (and 5 hectares for horticulture enterprises). There is work being undertaken to understand what "other owner" types of land (eg, leasehold land) need to be covered or managed by freshwater farm plan regulations.

Catchment context

1. Who defines catchment values and context?

A: The catchment context material will be led by regional councils with engagement with tangata whenua and their local communities. In many cases, there is already a good base to work from through catchment profile documents and other similar material already prepared to support regional planning processes. Many catchment groups are also gathering information about water in their areas. We consider that these groups will play an important role in informing and working with regional councils to highlight the values and importance of fresh water in each community.

2. What consideration is there to having different 'degrees' of base information depending on the catchment or farm operation context?

A: We are currently thinking about providing simplified versions (templates) of FWFPs for smaller farming operations. We are not intending to change thresholds but have recognised the burden that exists for smaller farm or diverse land-use operations, and properties with multiple leases/trustees.

3. How will all the values present in a catchment be assessed and monitored, particularly on private land? How will these be communicated to individual landowners?

A: Regional councils are responsible for establishing values working with their catchment communities, but every regional plan must account for the values set under the National Policy Statement for Freshwater. Environmental rules and limits will be set to ensure these outcomes and values are achieved – it is a regional council responsibility to set milestones and to have a monitoring system reflective of catchment interests (under the National Policy Statement for Freshwater Management).

4. Are the roles of catchment groups considered as part of this work?

A: Yes. Catchment groups play an important part, helping communities deliver environmental outcomes for freshwater and other values. The government is interested in further working with catchment communities as they are vital to the rollout of freshwater farm plans. Catchment groups will bring expertise in implementation to the FWFP system and help provide catchment context.

5. What levers does the Ministry have to encourage regional councils to pick up FWFPs in regional plans?

A: Freshwater farm plans will become an important tool used by regional councils in their freshwater management responsibilities. Several regional councils already require farm plans in particular catchments. Regional plans will need to reflect national farm planning requirements (and other national requirements relating to farm activities, such as the stock exclusion requirements). Over time, all farms over the minimum size thresholds (20 hectares and 5 hectares for horticulture) will be required to have a freshwater farm plan.

Māori rights and interests

1. Where are the requirements of Te Mana o Te Wai in this process? Noting that catchment values cannot be determined without Te Mana o te Wai or tangata whenua involvement.

A:The National Policy Statement for Freshwater Management 2020 requires councils to give effect to Te Mana o te Wai – the central concept for freshwater management. The views of tangata whenua need to be incorporated into the vision, values, environmental targets, limits and rules set in regional plans for Freshwater Management Units. This requirement cascades down through planning processes to freshwater farm plans, which are required to implement Te Mana o Te Wai as an outcome at a catchment level. Regional plans must be notified by December 2024. Because the rollout of freshwater farm plans is occurring ahead of regional plan changes, we will need to support advisors, certifiers and auditors of farm plans to understand how to support Te Mana o Te Wai.

2. What guidance is available to support farm plans meeting specific tangata whenua (iwi/hapū) Te Mana o te Wai concerns?

A: There may be scope for councils and tangata whenua to develop local catchment guidance that could be reflected in freshwater farm plans. Such material might include a more detailed list of sites significant to tangata whenua, local values or priorities (eg, mahinga kai values), or action plans to restore waterways. Thinking and development is currently underway.

3. Does the responsibility of freshwater farm plan decisions by the farm operator negate, or at least limit, the power of tangata whenua (particularly Māori landowners) to exercise mana whakahaere, especially over Māori land?

A: Regional councils are responsible for engaging with tangata whenua over freshwater planning. We do not propose a system where individual farmers and growers would be required to identify and engage relevant tangata whenua about their freshwater farm plan. That would risk placing an unreasonable burden on both tangata whenua and farmers. However, tangata whenua might be involved in aspects of the freshwater farm plan system, including:

- oversight of the performance of the system and the outcomes it is generating (locally, regionally and/or nationally)
- establishing the competencies and experience that must be held by actors in the system (especially freshwater farm plan certifiers)
- contributing to the assessment of any industry assurance programmes that may seek to be recognised under the system
- developing practice standards or other guidance that will be applied when undertaking risk or impact assessments and identifying actions farmers and growers must undertake in response
- undertaking quality assurance work (to ensure the overall quality of freshwater farm plans being produced)
- developing and delivering training courses.

Tangata whenua could also provide services, for example, as advisors to farmers, growers, freshwater farm plan certifiers and auditors. We want to know whether tangata whenua would be interested in such roles and what support might be needed to help tangata whenua into these roles.

Rollout, phasing and staging of freshwater farm plans

1. Why is there the need to have certified freshwater farm plans rolled out 'in the first half' of 2022?

A: We anticipate that regulations for Freshwater Farm Plans will be in place by mid-2022. However, not all farmers will need a freshwater farm plan as soon as the regulations come into effect. We will also take a phased approach to introducing them and are seeking your feedback in this consultation on where, how and why we should prioritize the rollout of freshwater farm plans.

2. When will freshwater farm plans start to be mandatory? Will it be when regional councils release their updated regional plans incorporating the National Policy Statement/National Environmental Standards (due 2024)?

A: Timeframes for when certified freshwater farm plans are to be required will be determined after freshwater farm plan regulations have been put in place. We are aiming for the middle of 2022 for plans to be in place in some areas of New Zealand. The freshwater farm plan system will need to be trialled to test certification systems and approaches. Where freshwater farm plans will be prioritised will be decided through an implementation workstream, with input from affected parties informing advice to Ministers.

3. What will the Minister consider when making a recommendation to the Governor General to make an order in council applying Part 9A to an area, noting that the Minister must be satisfied that the regulations are necessary to "better control the adverse effects of farming on freshwater and freshwater ecosystems"?

A: A range of matters will need to be considered in determining where certified freshwater farm plans should first be required. Input from regional councils will be particularly important. Where water quality data shows significant improvements may be needed, it may be better to wait until the regional freshwater plan has been updated before rolling out freshwater farm plans. This may be particularly important where the main pollutant is nitrate, as a range of other measures may be needed in addition to farm plans. Decisions will also be influenced by the likely regional availability of certifiers, auditors and advisors.

4. Would rollout of plans start with catchments that have poorest water quality, Ie, target the most degraded waterways first?

A: This approach could be considered. However, other factors will also be considered as mentioned in the previous questions.

5. As 70 per cent of hill country farmers within Tararua already have these farm plans, why is MfE not encouraging the other 30% get these in place sooner by investing?

A: This is another possible prioritisation consideration. Providing the farm plans are of reasonable quality, the focus could be on helping those who don’t already have one to get one in place. That would reward early adopters of farm plans. We welcome input on what criteria should guide decisions on where requirements for certified freshwater farm plans should be prioritised.

Certification and audit

1. What is going to be required to be a certifier?

A: Competency requirements for certifiers are currently being developed. We expect the freshwater farm plan system will require farm advisors to gain a set of new skills. For example, a new competency required for farm planning is understanding freshwater ecosystems and ecosystem health, and how farm practices directly impact, positively or negatively, upon them.

2. Will the certifier be required to have a good understanding of ecosystem health and what is required to achieve that?

A: Yes. This is a new area of knowledge for certifiers, including how farm practices impact, positively or negatively, on ecosystem health.

3. How many certifiers and auditors will be needed across the country?

A: Until we build the system, we won't know exactly. Because of this, we are proposing to phase in the implementation of freshwater farm plans, so they would not be required everywhere at once. This approach will help with capacity and capability issues, particularly around certifiers and auditors.

4. How are we going to qualify certifiers and or auditors to understand the broad overview objectives of the FEP, e.g. catchment values. and understand the bio/geo-physical setting for that property?

A: We are proposing options for how certifiers and auditors will get accredited. There are more details in the discussion document, pages 29–30.

5. Have you considered self-certification by the farmer, and directing the funds that would have gone into certification into auditing? Why penalise 90 per cent of the population with certification costs?

A: A farmer could develop their freshwater farm plan on their own, but it will still need to be certified by an accredited independent certifier.

6. Has MfE considered that a freshwater farm plan may be co-created by an agricultural advisor with a freshwater ecologist (as a planner works with ecologists for consents etc)?

A: A certifier should be able to rely on the expertise of other people in the area to fill in gaps in their knowledge gaps and/or upskill via training programmes.

7. From which sector will the certifiers come?

A: Certifiers could come from various sectors, as long as they could demonstrate the right level of expertise required to be accredited and to certify freshwater farm plans. The freshwater farm plan system requires national certification, along with certification at a regional level. This insures they have area relevant knowledge.

8. If farm plans are to be submitted to regional councils geospatially, how confident is MfE/MPI in the skillset of current rural professionals to do this?

A: Certifiers will have to demonstrate they have the skills required to be accredited and be able to certify freshwater farm plans. The government is working with regional councils, primary industry, tangata whenua and other partners on which competencies will be required for certifiers and auditors to be accredited, as well as on the support required (eg, courses, mechanisms for expert input) for certifiers and auditors.

9. What support will be in place to train new certifiers?

A: Government is working with regional councils, primary industry, tangata whenua and other partners on assessing which support (eg, training courses, standards) will help farmers, advisors, certifiers and auditors provide the best advice to farmers and growers and robustly assess FWFPs.

10. Is there going to be a freshwater farm plan template available or do we all have to invest in our own bespoke system?

A: We are investigating a freshwater farm plan template, especially for smaller farms, to reduce time and cost for small land holders.

11. How will you ensure consistency across certifiers and auditors, both in levels of competence and understanding/interpreting 'context', and in delivery of service to the farming entities?

A: Accreditation will be provided at a national level to ensure consistency in professional standards. There will need to be a quality assurance process over the performance of auditors and certifiers, and farm plans. This will happen in development with regional councils.

12. Will certification of the freshwater farm plan certifier be by land use type?

A: Certifiers will have to demonstrate the right level of expertise required to be accredited and certify freshwater farm plans and to operate within the scope of their accreditation. Regional councils are required to appoint certifiers to operate in their region. We are considering what the accreditation system would be, eg, specific certification for different farm systems.

13. Is there a process for identifying and auditing the critical source areas on a farm? For example, if there are any critical source areas, where they are, and how big they are.

A: Guidance and risk-based frameworks will assist advisors to identify critical source areas on-farm.

Auditing

1. Will a farmer operating within an industry assurance programme still need their individual farm plan to be certified?

A: Yes. It is likely that the processes must change to be compliant with the primary legislation and regulations. The details are still in development.

2. If the plan is completed by a certified advisor, why is it compulsory to have it audited?

A: The roles of certifier and auditor are quite different. The certifier's role is to determine whether the freshwater farm plan meets the requirements specified in the regulations (whether the plan is fit for purpose, and make sure it's a quality plan). It is expected the Certifier will have a broad set of skills related to farm systems knowledge, farm environment and mitigations to address potential effects on Freshwater Ecosystem health, etc. The auditor's role is to check a farmer's progress within the plan and verify completion of any actions (mitigations) in the freshwater farm plan (not to check the quality of the plan itself).

3. What training has been considered to bring auditors up to specification and to provide confidence to farmers that they know what they're doing?

A: The auditor role will have to demonstrate they have the competencies required to be accredited and therefore able to audit freshwater farm plans. Government is working with regional councils, primary industry, tangata whenua and other partners on which competencies will be required for both certifiers and auditors to be accredited, as well as on the support required (eg, training courses, standards and guidance).

4. Is the audit process just a pass or fail?

A: No. We are asking for feedback on providing less frequent audits for farms that have better audit results, and more frequent audits for farms where there are concerns about performance. This would reward farmers who are performing well, but to do this would require a grading system.

5. Will freshwater farm plans be confidential, or will farmers' information be available in the public domain?

A: We are aware of privacy and commercial concerns. Regional councils can request plans under legislation, but any information publicly reported will be amalgamated. This will ensure protection of private information and commercially sensitive data. Note that some aggregated information will need to be reported from the freshwater farm plan certification and audit process to provide transparency and build public confidence in the robustness of freshwater farm planning.

The consultation is an opportunity for you to share your thoughts on what information is appropriate to be included in freshwater farm plans and what should, or should not, feed into any public reporting.

Compliance, monitoring, and enforcement

1. What sanctions/fines are going to be in place as consequences of ignoring the requirements, or failing to carry out the freshwater farm plan actions or meet standards set for the region/farm? We have seen voluntary systems don't work.

A: Regional councils will use their existing Resource Management Act (RMA) enforcement tools for non-compliance. Infringement notices are proposed to range from $500 to $1,500 for non-compliance.

Refer to the discussion document, page 38, for proposed offences and fees for non-compliance.

2. If you lease your farm, who is responsible for ensuring FEPs are completed, certified and implemented?

A: The farm operator is responsible. Part 9A of the RMA defines the Farm Operator as the person with ultimate responsibility for the operation of a farm.

3. What happens when you sell or buy a farm? Does the new owner need to make a new plan?

A: Not necessarily. The new owner could take over the freshwater farm plan from the existing owner. In many cases, the former operator will transfer farm plan with a sale, but that it is a private matter. Any major change in the farming system or land use would, however, require a new freshwater farm plan to be prepared and certified as fit for purpose.

We are currently consulting on options for the Freshwater Farm Plan regime, including criteria for re-certification. Refer to page 33–34 in the discussion document.

Integrated farm planning and industry schemes

1. Water quality (plus biodiversity, climate etc) would benefit from all landowners being required to complete plans to manage environmental impacts. Have we considered broadening our scope to include landowners?

A: While the regulations are for freshwater farm planning, we envisage they could be part of an integrated farm plan. Integrated farm planning provides a way for a farmer or grower to bring together all their farm planning requirements (such as, people management, biosecurity, animal welfare, greenhouse gas emissions and freshwater) in one place. It is not a regulatory tool but a framework designed to help farmers and growers manage all aspects of their business.

Promoting an integrated approach to farm planning is intended to streamline compliance, reduce duplication, and provide a structured approach for farmers and growers to lift performance.

2. With mixed farming operations on one farm (eg, dairy, forestry and kiwifruit), may we have one integrated farm plan, rather than separate plans for each operation?

A: Yes. It doesn't make sense for farmers and growers to have multiple freshwater farm plans covering the same farm (unless there is a good reason to do so).

When creating a freshwater farm plan, farmers will be required to provide information including primary land uses or farming activities, and secondary activities where applicable. For mixed enterprises, a more comprehensive freshwater farm plan may be needed to capture all the farming activities and ensure it is fit for purpose. The detail on this is to be worked though so we can have a practical and workable farm planning system. We welcome comments on this via submissions.

3. Dairy farmers already have FEPs with dairy companies – do they need to have two plans or can they use what they have already? Are we ensuring that individual farmers aren't going to have to jump through another hoop if they're already getting assessed by their supplier group or regional council?

A: It doesn't make sense to have multiple plans covering the same activity. The intention is to build on existing farm plans. Some modifications may be necessary to meet the freshwater farm plan regulatory requirements, and a process to make this transition will be needed. Similarly, there may be opportunities to combine auditing, providing auditing standards can be met.

Stock exclusion low slope maps

1. For the stock exclusion, for properties that have land above 500 metres altitude, how much weight will be given to the practicality of the farm system with regards to stock exclusion? Is the farmer likely to just be told they are going to have to exclude stock regardless of the cost?

A: The proposed 500-metre altitude threshold for the low slope map means that above 500 metres, stock exclusion will be managed through freshwater farm plans. There is no suggestion that this means a farmer will be required to exclude stock regardless of the associated costs. On the contrary, Cabinet's intention when introducing the stock exclusion regulations was that they would not apply to extensive farming operations in the high country. The reason for this intention was to recognise that the relative flexibility of freshwater farm plans would be a more appropriate way to consider the challenges of farming in these areas.

2. The move for changes such as three meters to five metres is why farmers are feeling uncertain and holding back from carrying out works on-farm.

A: We would encourage anyone who wants to take action to improve freshwater quality to do so. Uncertainty on future requirements is not a reason for inaction. There will always be some uncertainty in future regional planning processes. Taking steps now will be more effective than postponing action until there is more certainty.

3. In terms of stock exclusion, how is extensive farming defined?

A: The low slope map is intended to capture extensive, rather than intensive, farming operations. The regulations themselves do not include a definition of extensive farming. They define "intensively grazing" as: (a) break feeding; or (b) grazing on annual forage crops; or (c) grazing on pasture that has been irrigated with water in the previous 12 months.

4. Are goats included in stock exclusion regulations?

A: The stock exclusion regulations do not apply to goats as they are not included in the definition of stock. The Resource Management (Stock Exclusion) Regulations 2020 define stock as beef cattle, dairy cattle, dairy-support cattle, deer and pigs.

5. Are break-feeding sheep captured if being intensively winter grazed?

A: Sheep are not included in the definition of stock in the Resource Management (Stock Exclusion) Regulations 2020. These regulations define beef cattle, dairy cattle, dairy support cattle, deer and pigs as stock. However, note that **intensive winter grazing** regulations in the National Policy Statement for Freshwater (NES-F) apply to all livestock.

6. Do irrigated or break-fed sheep require stock exclusion?

A: No. Sheep are not included in the definition of stock in the regulations. The Resource Management (Stock Exclusion) Regulations 2020 define beef cattle, dairy cattle, dairy support cattle, deer and pigs as stock.

7. When are we likely to have access to a 10-degree slope map?

A: The map is available on the Ministry for the Environment's website at: https://consult.environment.govt.nz/freshwater/stock-exclusion-regulations/

As noted on the website, you can use the interactive web map to see how the current and proposed maps identify low slope land. You can also download the spatial datasets for the proposed map from the Ministry's Data Service: https://data.mfe.govt.nz/layer/105877-stock-exclusion-low-slope-land-2021-proposal-nz/

8. What is the definition of a waterway, in the context of stock exclusion?

A: The stock exclusion regulations do not include a definition of waterways, as they require the exclusion of stock from lakes, wide rivers and specified natural wetlands:

- **lakes** are not defined in the regulations, which means that the definition in the Resource Management Act 1991 applies: a body of fresh water which is entirely or nearly surrounded by land.
- **wide river** means a river (as defined in the Act) with a bed that is wider than one metre anywhere in a land parcel.
- **natural wetland** means a wetland (as defined in the Act) that is **not:**
  - a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or
  - a geothermal wetland; or
  - any area of improved pasture that, at the commencement date, is dominated by (that is more than 50 per cent of) exotic pasture species and is subject to temporary rain-derived water pooling.

9. The 500-metre exclusion results in intensively-farmed horticultural land in the Ohakune area being excluded from mandatory fencing of streams – was this an oversight?

A: The stock exclusion regulations apply only to stock exclusion. They do not apply to horticulture or require mandatory fencing of streams in intensively farmed horticultural land in the Ohakune area. In fact, they do not require mandatory fencing of streams anywhere. The stock exclusion regulations only require stock to be effectively excluded from access to waterways. While this can often mean that fencing is required, the regulations themselves do not refer to fencing.

Also, the regulations capture intensively grazed land without recourse to the low slope map; they provide that beef cattle or deer that are intensively grazing must be excluded from access to waterways regardless of terrain. They define "intensively grazing" as: (a) break feeding; or (b) grazing on annual forage crops; or (c) grazing on pasture that has been irrigated with water in the previous 12 months.

10. What about land that hasn't been captured by the low slope map? Does this mean the new map isn't fit for purpose?

A: We don't consider that if land hasn't been captured that the map isn't working as it should. Land that hasn't been captured will be a product of the terrain averaging approach. However, this land must still be managed effectively. If stock exclusion is still the most appropriate method to address pressures on freshwater, then stock should be excluded and managed through freshwater farm plans.

Intensive winter grazing

1. For intensive winter grazing (IWG) slope, how large of an area in a paddock will need to have a maximum slope of over 10 degrees before the entire paddock is unable to be used for IWG? Will just those patches of the paddock be excluded?

A: The proposed change is to measure *maximum* slope instead of *mean* slope across a paddock.

Under this proposal, the paddock scale will no longer be relevant, and only the areas where the slope is above the threshold will be excluded. We are proposing that measuring *maximum* slope could be based on the definition in the proposed Southland Water and Land Plan, which measures slope as the average slope across any 20-metre distance.

2. Can I still use paddocks that have patches of over 10-degree maximum slope for intensive winter grazing?

A: The proposed new method of measurement will no longer look at the paddock scale, but the slope of any given area. So, within a paddock you could use any areas that are under the 10-degree threshold as a permitted activity. You could also still use the areas of the paddock that are over the 10-degree threshold through either pathway two or three. If the certified freshwater farm plan (pathway two) certifies that the effects of intensive winter grazing are no more than what is allowed under the permitted activity conditions (pathway one), you can graze the areas of higher slope. If the effects were greater, even when managed through the certified freshwater farm plan, you would need to apply for a resource consent (pathway three) to do intensive winter grazing.

3. With the new date of 1 November, can you confirm that this relates to intensive winter grazing, including slope? Can farmers who have already prepared ground to plant in intensive winter feed on a dry land hill country property graze this in winter 2022 if the slope is over 10 degrees?

A: Yes – the new date of 1 November relates to intensive winter grazing and slope. This date relates to the re-introduction of all the permitted activity conditions. However, it is still a proposal at this stage. Currently, the regulations are set to come into effect on 1 May 2022. If the regulations are delayed as proposed, then that's correct – you would not yet need to comply with the condition relating to slope until the regulations come into effect.

4. Will the freshwater NES timeframes for IWG be put off until after 2022 (the date given for when these are to be ready) when the certified freshwater farm plans are a pathway for compliance with the IWG rules from the NES?

A: We are proposing that the IWG regulations in the NES-F be delayed for a further 6 months, to commence on 1 November 2022, to allow time for farmers to adjust practices (if required) ahead of the 2023 IWG season. Certified freshwater farm plans are one of three pathways for IWG, and until certified freshwater farm plans are available, those wanting to undertake IWG have the other two pathways available (ie, comply with the default conditions or obtain a resource consent).

5. When do intensive winter grazing existing use rights apply from, with the deferment of the rules to May 2022?

A: Existing use rights apply from the date the intensive winter grazing regulations come into effect. Currently, the regulations are set to come into effect on 1 May 2022, but we are proposing to further defer that so they would come into effect on 1 November 2022.

Questions raised on other related issues

1. Are you concerned that submissions are going to be reduced or constrained, given that the Otago Regional Council has declined to provide any extension to submission deadlines due to the COVID-19 lockdown?

A: This refers to the Otago Regional Council proposed Regional Policy Statement, which is a separate process to the freshwater farm plans regulations consultation. Provided the period for submissions is over the minimum requirements set in the RMA (which in this case it was), the Ministry has no role. Any decision, and the impact on submissions, of extending or not extending the submission period rests with Otago Regional Council.