



# Managing intensive winter grazing

Summary of the discussion document

## We are consulting on amendments to the intensive winter grazing regulations

Engagement on the amendments to the intensive winter grazing regulations in the National Environmental Standards for Freshwater (NES-F) has begun. We are asking for your feedback and are accepting submissions from 26 August to 7 October 2021.

This summary document provides a high-level overview of the proposed changes to the regulations that we are consulting on. We propose amending the default conditions so they can be complied with more practically, and deferring the commencement of the regulations for a further six months until 1 November 2022. More detail on the proposals can be found in the full discussion document, available at: <https://environment.govt.nz/publications/managing-intensive-winter-grazing-discussion-document/>.

## How the intensive winter grazing regulations work

The intensive winter grazing regulations prevent the expansion of intensive winter grazing, while providing three pathways for farmers to undertake the activity.

The expansion restrictions are interim measures. They came into effect on 1 May 2021 and continue to apply throughout the deferral to the intensive winter grazing regulations. We are not proposing to amend these expansion restrictions.

The three pathways for farmers to undertake intensive winter grazing are:

- **Pathway 1:** intensive winter grazing activities are *permitted if a farmer complies with the default conditions* set out in the NES-F
- **Pathway 2:** intensive winter grazing activities are *permitted if a farmer obtains a certified freshwater farm plan* (under this pathway, the certified freshwater farm plan must demonstrate that any adverse effects in relation to the intensive winter grazing are no greater

than those allowed for by the default conditions). This will be available following the roll-out of the certified freshwater farm plan regime in mid-2022

- **Pathway 3:** if neither Pathway 1 or Pathway 2 can be met, a farmer needs to *obtain a resource consent* for intensive winter grazing activities.

## Proposed amendments

We propose amending the default conditions so they can be complied with more practically. These amendments are detailed in the table below.

The changes to the default conditions would affect both Pathway 1 and Pathway 2, because Pathway 2 (the freshwater farm plan pathway) relies on the default conditions as a benchmark for assessing outcomes under a freshwater farm plan and therefore whether the intensive winter grazing activity is permitted.

## What are the main considerations?

### Making conditions more practical while still managing environmental effects

Under section 43A(3) of the Resource Management Act 1991, national environmental standards cannot permit an activity that has significant adverse effects on the environment.

While the proposed changes to the intensive winter grazing regulations would make the default conditions more practical, we also need to be sure they will not permit adverse effects on the environment.

Feedback received during consultation may identify other changes to the default conditions that may be appropriate to mitigate the risk of adverse effects on the environment.

### Slope threshold

There are views that the slope threshold should be higher or lower than the existing 10 degrees; but it is clear that sediment loss increases significantly when intensive winter grazing is undertaken on higher slopes. Modelling used to inform the current regulations shows that an increase in slope from 10 to 15 degrees would double the sediment loss, and an increase to 20 degrees would triple it.<sup>1</sup>

Taking into account both practicality and expected environmental impacts, we think 10 degrees is still appropriate for a permitted activity and propose to keep it as a default condition. However, it is easier to measure a maximum slope rather than a mean one, so we propose moving to a maximum allowable slope.

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<sup>1</sup> The relationship between the amount of sediment lost at specific slopes is dependent on site-specific factors such as soil type, climate and slope length (ie, longer slopes lose proportionately more sediment than short slopes), as well as the slope angle itself. The modelling cited provides an indication of the relationship between slope and sediment, based on those site-specific factors, for a site in South Canterbury and while it has been shown that sediment loss increases with increasing slope, the exact values of the modelling cannot be assumed to represent the whole of New Zealand. See the Regulatory Impact Analysis, Action for healthy waterways Part 2: detailed analysis, available at: <https://environment.govt.nz/publications/action-for-healthy-waterways-part-2-detailed-analysis/>.

# Detail of proposed amendments to the default conditions

We propose to make the following changes to the default conditions (reg 26(4)) of the NES-F:

<ul style="list-style-type: none"><li>• <b>Reg 26(4)(a): AREA</b> - No change (ie, the limit of area used for intensive winter grazing remains at 50 hectares or 10 per cent of the area of the farm, whichever is greater).</li></ul>
<ul style="list-style-type: none"><li>• <b>Reg 26(4)(b): SLOPE</b> - Amend to measure the slope threshold as <i>maximum allowable slope</i> instead of <i>mean slope across a paddock</i> (while keeping the existing threshold of 10 degrees).<sup>2</sup></li></ul>
<ul style="list-style-type: none"><li>• <b>Reg 26(4)(c): PUGGING</b> - Amend so that farmers have to take reasonably practicable steps to manage the effects on freshwater from pugging (in areas that are used for intensive winter grazing). Officials will develop guidance to ensure that farmers and councils have a shared understanding of what reasonable and practicable steps are.</li></ul>
<ul style="list-style-type: none"><li>• <b>Reg 26(4)(d): SETBACK</b> - Amend the definition of 'drains' to exclude <i>sub-surface</i> drains as originally intended. Manage <i>sub-surface</i> drains (where known to exist) through critical source areas (see proposed new condition below).</li></ul>
<ul style="list-style-type: none"><li>• <b>Reg 26(4)(e): RESOW</b> - Remove the requirement to resow by 1 October (1 November in Otago and Southland) and, instead, require farmers to resow 'as soon as practicable', ie, in order to minimise the amount of time that bare ground is exposed to the weather, and clarify that other methods of establishing ground cover (eg, companion planting) are included. Officials will develop guidance to provide more clarity for farmers and councils as to what steps could demonstrate that a farmer is resowing <i>as soon as practicable</i>.</li></ul>
<ul style="list-style-type: none"><li>• <b>New condition: CRITICAL SOURCE AREAS</b> - Include a new condition requiring that critical source areas must be protected (uncultivated and ungrazed).<sup>3</sup> Officials will develop guidance to ensure that farmers and councils have a shared understanding of how critical source areas will be identified and protected.</li></ul>

## Further deferral to the regulations

We acknowledge that farmers begin making on-farm decisions well in advance of the winter grazing season beginning in May each year. We understand it is important to provide certainty to farmers before the season begins about what regulations will apply for the season. In this case, the changes proposed in the managing intensive winter grazing discussion document will not have been finalised before those on-farm decisions need to be made for the 2022 winter grazing season.

Therefore, we propose a further deferral to the commencement of the intensive winter grazing regulations for six months (so the regulations would begin on 1 November 2022). That should provide time for farmers to adjust their practices, cultivation, and planting choices in preparation for the 2023 winter grazing season.

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<sup>2</sup> Measuring the *maximum slope* could be based on the Proposed Southland Water and Land Plan, which measures slope as the average slope across any 20-metre distance. See Rule 25 in the Proposed Southland Water and Land Plan, available at: [Proposed Southland Water and Land Plan – Part A – Decisions Version \(4 April 2018\) PDF.pdf \(es.govt.nz\)](#) (note this is subject to appeal).

<sup>3</sup> The definition of critical source areas could be based on the definition within: the Proposed Southland Water and Land Plan, in line with recommendations from the SAG (but noting the Plan is subject to appeal), or the proposed certified freshwater farm planning regulations. These definitions consider that critical source areas are landscape features (like a gully) that accumulate runoff (sediments and nutrients) and deliver it to water bodies.

## **During the period of deferral**

During any period of deferral, the Ministry for the Environment and the Ministry for Primary Industries would continue to work with the primary sector to improve winter grazing practices. Non-regulatory measures, such as the use of the intensive winter grazing module and increased regional council monitoring, could be strengthened to continue to drive improved practice until the regulations come into effect.

## **Long-term use of certified freshwater farm plans**

We recognise that, eventually, all farmers will need a certified (and audited) freshwater farm plan regardless of intensive winter grazing regulations. We consider that freshwater farm plans will ultimately be the best way to manage the activity, and we understand there is widespread agreement within the farming community on this being the most appropriate management tool. The ability to develop bespoke mitigations through freshwater farm plans will give farmers the ability to manage the effects of intensive winter grazing in other ways, as an alternative to complying with the default conditions.

Long-term, once certified freshwater farm plans are available<sup>4</sup> and being implemented successfully, we will look at phasing out the permitted activity pathway based on default conditions (Pathway 1) altogether. There would remain a single permitted activity pathway based on certified freshwater farm plans (with no change to the resource consent pathway).

## **Have your say**

We are accepting submissions from 26 August until 7 October 2021. Read the full discussion document and have your say at <https://consult.environment.govt.nz/>.

For more information, contact [IWG@mfe.govt.nz](mailto:IWG@mfe.govt.nz).

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<sup>4</sup> 'Availability' could be based on district, regional or nationwide availability.

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