



Cabinet Business Committee

Minute of Decision

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Consulting on Changes to the Intensive Winter Grazing Regulations

Portfolio Environment / Agriculture

On 16 August 2021, the Cabinet Business Committee:

Background

- 1 **noted** that in June 2018, Cabinet approved the Essential Freshwater work programme in order to:
 - 1.1 stop further degradation of New Zealand's freshwater resources;
 - 1.2 start making immediate improvements so that water quality is materially improving within five years;
 - 1.3 reverse past damage to bring New Zealand's freshwater resources, waterways and ecosystems to a healthy state within a generation;

[CAB-18-MIN-0296]
- 2 **noted** that intensive winter grazing (IWG) is a high-risk farming practice where large numbers of stock (cattle, sheep, deer) are confined over winter to small feeding areas planted with annual forage crops (e.g. Swedes, kale and fodder beet), which can result in serious negative effects on animal welfare and the environment;
- 3 **noted** that in August 2020, the Essential Freshwater regulatory package was gazetted, including the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F), directed at making early change to the way high-risk activities (including IWG) are conducted;
- 4 **noted** that the Essential Freshwater package is now being implemented and feedback has been received that parts of the NES-F relating to IWG may require modification to support effective implementation and achieve improved environmental outcomes;
- 5 **noted** that the NES-F prevents the further expansion of IWG and seeks to improve practice by providing three pathways for farmers to undertake IWG:
 - 5.1 Pathway 1: IWG activities are permitted if a farmer complies with the default conditions set out in the NES-F; or
 - 5.2 Pathway 2: IWG activities are permitted if a farmer obtains a certified freshwater farm plan (certified FW-FP) that achieves an equivalent (or better) outcome;

- 5.3 Pathway 3: if neither of Pathways 1 nor 2 can be met, a farmer needs to obtain a resource consent for IWG activities;
- 6 **noted** that a Southland Intensive Winter Grazing NES Advisory Group (SAG) released a report in December 2020 making several recommendations to adjust the default conditions, including a deferral to the regulations until these changes could be made;
- 7 **noted** that in April 2021, the Cabinet Legislation Committee agreed to a temporary deferral (of 12 months) to the IWG regulations commencing, so they are currently due to come into effect on 1 May 2022; but that the deferral did not affect the restrictions on the expansion of IWG, which still came into effect on 1 May 2021 [LEG-21-MIN-0041];
- 8 **noted** that the temporary deferral to the IWG regulations has:
- 8.1 enabled the primary sector, regional government, and central government officials to focus efforts on the development of an IWG module for FW-FPs, launched publicly in April 2021;
 - 8.2 incentivised the primary sector to demonstrate real practice change for the 2021 winter grazing season, including for animal welfare, while any changes are considered;
 - 8.3 allowed for regional councils to undertake increased monitoring and reporting to ensure measurable improvements by 30 April 2022, with a first quarterly progress report by regional councils being provided to the Minister for the Environment and the Minister of Agriculture on 1 August 2021;
 - 8.4 allowed time for officials to consider the SAG's recommendations and potential changes to default conditions in the regulations;

Changes to the intensive winter grazing regulations

- 9 **noted** that if, as expected, certified FW-FPs are not available when the IWG regulations come into effect on 1 May 2022, a potentially large number of resource consents might be lodged and need processing, at a cost to both farmers and regional councils;
- 10 **agreed** to consult on the following amendments to the default conditions to ensure the IWG regulations can be implemented in practice while managing the adverse effects of IWG:
- 10.1 amend to measure slope as maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees);
 - 10.2 amend so that farmers have to take reasonably practicable steps to manage the effects on freshwater of pugging in areas that are used for IWG, which will be supported by the development of guidance by officials to ensure that farmers and councils have a shared understanding of what reasonably practicable steps are;
 - 10.3 amend the definition of 'drains' to exclude sub-surface drains (as originally intended), and manage sub-surface drains (where known to exist) through critical source areas (see proposed new condition below);
 - 10.4 remove the requirement to resow by 1 October (1 November in Otago and Southland) and instead require farmers to resow as soon as practicable (which may vary according to circumstances and weather events), and clarify that other methods of establishing ground cover (e.g. companion planting) are included;

- 10.5 include a new condition to identify and protect critical source areas (i.e. uncultivated and ungrazed);
- 11 **noted** that in respect of paragraph 10.4, officials will develop guidance to provide more clarity for farmers and councils as to what steps could demonstrate that farmers were resowing as soon as practicable;
- 12 **noted** that in respect of paragraph 10.5, officials will develop guidance to ensure that farmers and councils have a shared understanding of how critical source areas will be identified and protected;
- 13 **noted** that a further deferral to the commencement of the IWG regulations of six months is proposed (so the regulations would begin on 1 November 2022), to allow time for farmers to adjust their practices to comply with amended regulations;
- 14 **noted** that the certified FW-FP pathway (Pathway 2) would still be unavailable until the FW-FP regime is rolled out, expected to begin from mid-2022 but likely to take some time before being available to all farmers nationwide; but if staged could be prioritised to start in areas with high-risk IWG activity;
- 15 **noted** that the NES-F cannot permit an activity that will have significant adverse effects on the environment, and that any changes to make the default conditions (Pathway 1) more practicable would need to ensure this does not occur;

Consultation and next steps

- 16 **noted** that consultation is intended to begin immediately following Cabinet decisions and will be conducted over a six-week period by the Ministry for the Environment and the Ministry for Primary Industries;
- 17 **noted** that the approach to consultation will be aligned with consultation on FW-FPs and stock exclusion low slope mapping amendments to make it easier for the primary sector to engage;
- 18 **approved** the release of the discussion document, attached as Appendix A to the paper under CBC-21-SUB-0066, as the basis of consultation on changes to the IWG regulations within the NES-F;
- 19 **authorised** the Minister for the Environment and Minister of Agriculture (responsible Ministers) to make appropriate textual, editorial, design and technical changes to the discussion document before consultation;
- 20 **noted** that, following consultation, the responsible Ministers will report back to Cabinet before the end of 2021 seeking agreement to amend the NES-F.

Rachel Clarke
Committee Secretary

Present: (see over)

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

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