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15 September 2021

*Stock Exclusion Regulations: proposed changes to the low slope map, and
Freshwater Farm Plan regulations consultation*
Ministry for the Environment
P O Box 10362
Wellington 6143

Dear Sir/Madam

Submission on the Discussion Documents for low slope map changes, and farm plan system regulations

Thank you for the opportunity to make submissions on the Discussion Documents for "*Stock Exclusion Regulations: Proposed changes to the low slope map*", and "*Freshwater farm plan regulations*".

The West Coast Regional Council's (the Council) submissions on both Discussion Documents are attached to this letter. If submissions on each of the Discussion Documents are processed by different sections of the Ministry, can you please ensure that they are copied and forwarded to the respective sections.

In summary, the Council's main submission points on the two Discussion Documents are:

Stock Exclusion Regulations: Proposed changes to the low slope map

While the Council does not oppose the changes proposed in the Discussion Document, we have concerns that they do not address the issue on the West Coast of low slope but low intensity grazing land (large 'run of river' blocks) being captured by the Stock Exclusion Regulations. To ensure the Regulations provide the desired flexibility, we provide two constructive and practical solutions to address the issue.

Freshwater farm plan regulations

The Council supports the use of Fresh Water Farm Plans (FWFPs) as a way of managing freshwater-related impacts of farming activity, particularly where they can reduce or remove the requirements for resource consents and are practical, achievable, and not cost prohibitive to the farmer or for councils to regulate. We have commented on a number of aspects of the proposed farm plan system, supporting one or other of the options put forward by the Ministries including the involvement of tangata whenua at a regional level without having to engage on every farm plan unless individual situations necessitate this, as well as farm plan certifiers having discretion to identify actions needed to address environmental risks and impacts of farm activities on fresh water.

Council disagrees with only a small number of the proposals, namely, the requirement for mandatory FWFPs without a certification system in place, and the option of a hybrid system of both prescribed regulations for higher adverse environmental risk areas or areas the government seeks more direct control over, and certifier discretion to manage lower environmental risks and impacts on fresh water. Our reasons on these matters are outlined in the submission.

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Please contact Lillie Sadler if you have any questions regarding the content of our submission or require additional information.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'H Mabin', with a long horizontal flourish extending to the right.

Heather Mabin
Acting Chief Executive Officer

West Coast Regional Council comments on “Stock exclusion regulations: Proposed changes to the low slope map: Discussion Document”

Introduction

This submission provides feedback from the West Coast Regional Council (WCRC or the Council) in response to the Ministry for the Environment and Ministry for Primary Industries *Stock exclusion regulations: Proposed changes to the low slope map (2021)*. As part of the Resource Management (Stock Exclusion) Regulations 2020, a map was introduced that identifies low slope land across New Zealand and designates areas where the associated requirements for stock exclusion apply. However, the map has captured areas where the Stock Exclusion Regulations were not intended to apply. The Ministries, through the current Discussion Document, are seeking feedback on proposed changes to the low slope map.

The Council has concerns about the inclusion of parts of the West Coast that are subject to low intensity extensive grazing within the low slope maps. The Council has submitted and otherwise engaged with central government on this matter throughout the Essential Freshwater consultation and submission process and post the enactment of the Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusion Regulations).

This submission does not address every question raised in the discussion document. Rather, we provide general comments on the changes to the low slope maps as proposed, as well as our specific concerns and feedback in relation to one key aspect of the discussion document that is relevant for the West Coast Region.

Summary of Feedback

Feedback includes the following suggestion:

- **Request** that alternatives are provided to allow the Stock Exclusion Regulations to have more flexibility and exempt low intensity land use. Two possible options have been provided as starting points for consideration.

Feedback

Discussion Document Section 3: Proposed Changes – introduction of a new map

It is noted that the proposed changes reduce the amount of land captured by the proposed low slope maps overall, although there are individual circumstances where land that was not previously captured may now be. The methodology used to identify the areas removed as ‘depleted grassland and tall tussock areas’, and the accuracy of the changed low slope methodology is not clear, however reducing any marginal areas previously captured and moving them to consideration through Freshwater farm plans is considered positive.

Discussion Document Section 5: Options we are not considering

Question 11. Do you agree our proposed changes to the low slope map address the need for stock exclusion requirements to have some flexibility? If not, why not?

The proposed changes do not address the concerns held by WCRC and some landowners about the inclusion of low slope but low intensity (and often remote) grazing areas within the maps (including low intensity river-run operations within the West Coast). The discussion document (Section 5) specifically states that no exemptions from the low slope maps are recommended and that Section 360 Regulations cannot be written to provide regional councils with the ability to exercise discretion over the requirements (i.e., provide for exemptions). The discussion document also suggests that the proposed changes to the low slope maps provide response to stakeholders' desire for discretion around stock exclusion requirements.

WCRC **does not agree** that the proposed changes to the low slope maps address the need for stock exclusion requirements to have some flexibility. While the Council does not oppose the changes that are suggested in the discussion document, it considers they need to go further to address concerns around low slope but low intensity grazing land being captured by the Stock Exclusion Regulations. Two potential solutions to this issue are proposed below:

- 1) The proposed amendment of the low slope map is intended to remove areas of low value (for pastoral purposes) rough grazing land. This is considered appropriate in line with the reasoning for 'depleted grassland and tall tussock areas'; that is, it is unlikely to be intensified and would be more appropriately managed through Freshwater farm plans. Input from regional councils in the identification process of areas for exclusion will be required. As dairy, dairy support and pigs require stock exclusion under the Regulations regardless of slope (the low slope maps do not apply to these farmed livestock), any additional areas excluded from the maps would automatically not apply to these more intensive land uses.
- 2) Alternatively, rather than addressing the issue via the low slope map, amendments to the Stock Exclusion Regulations could be made which would essentially exclude stock (beef and deer) grazing at extremely low intensities from the Regulations, noting that the issue is largely in relation to beef on the West Coast. This would allow for national consistency rather than a specific landholding identification process as per our point 1 above, and still meet the objectives around water quality that the Stock Exclusion Regulations are intended to support. The areas exempted would only be those of very low stock intensities and would be managed via the Freshwater Farm Plan process.
- 3) An example of how section 14 of the Stock Exclusion Regulations could be amended is shown below (additions underlined). Section 15 of the Stock Exclusion Regulations in relation to deer could be amended in a similar fashion. The example below uses six stock units as a measure (noting that stock units are a consistent measure across different stock classes, six stock units = approximately (will depend on weight/size/type) one fully grown beef animal). The measure suggested is based on the *Land Use Capability Survey Handbook* (2009, p. 114) which outlines stocking rate as low at 6 – 10 stock units/ha and very low at 1 – 5 stock units/ha. It is suggested however, that the stocking rate for exemptions (i.e., stock units/ha) should be refined with farming stakeholders should this option be advanced.

15 Beef cattle on low slope land

Beef cattle on low slope land, except where the stocking rate within a single pastoral system is six stock units per ha or less –

- (a) must be excluded from lakes and wide rivers (except when crossing); and
- (b) must cross a lake or wide river by using a dedicated bridge or culvert unless they –
 - (i) are supervised and actively driven across the lake or wide river; and
 - (ii) do not cross the same lake or wide river more than twice in any month.

Further, a new associated definition would need to be included in Section 4 (Interpretation), for example:

“Single pastoral system means an area utilised for the purposes of livestock grazing as a single operation regardless of land title or tenure, including all areas where livestock have access for grazing purposes but excluding any areas that are not subject to livestock grazing.”

The definition must be written in such a way that it is not possible for a higher intensity operation to include non-grazing areas (i.e., bush blocks) to artificially average a lower stocking rate across a property. Working through the definitions with stakeholders will help refine them.

WCRC considers that it is appropriate to provide for exemptions for low intensity land use from the requirements for stock exclusion, and that there are pathways to provide for this as outlined above.

Suggestion

- We **Request** that alternatives are provided to allow the Stock Exclusion Regulations to have more flexibility and exempt low intensity land use. Two possible options have been provided as starting points for consideration.

End of submission

West Coast Regional Council comments on “Freshwater farm plan regulations: Discussion Document”

Introduction

This submission provides feedback from the West Coast Regional Council (WCRC or the Council) in response to the Ministry for the Environment and Ministry for Primary Industries *Freshwater farm plan regulations: Discussion document (2021)*. The Ministries, through the discussion document are seeking thoughts on proposals for developing freshwater farm plan Regulations under Part 9A of the Resource Management Act 1991 (RMA). Part 9A of the RMA legislates the requirement for Freshwater farm plans (FWFPs) and the current consultation is about giving effect to Part 9A, rather than seeking feedback on matters already set out in the RMA.

The consultation seeks our view on proposals and options for:

- How Freshwater farm plans (FWFPs) integrate and fit with other systems and approaches;
- Involvement of tangata whenua;
- Content - Key elements of FWFPs (regulated outcomes, farm planning, certification and audit);
- Quality assurance;
- Enforcement mechanisms;
- Implementing options; and
- Reporting and review methods.

With respect to the questions asked, our submission focuses on the key issues of relevance to the West Coast Region rather than commenting on every section of the discussion document.

The Council supports the use of FWFPs as a way of managing freshwater-related impacts of farming activity, particularly where they can reduce or remove the requirements for resource consents and are practical, achievable, and not cost prohibitive to the farmer or for councils to regulate. Further, we support the inclusion of regional planning and policy frameworks in regional plans to provide the catchment context for FWFPs as this is pivotal to ensuring that local conditions are met and provided for.

Many of the preferred options as set out in the discussion document are supported by the Council. However, we have concerns and request changes to some aspects.

Summary of Feedback

Feedback includes the following comments and suggestions:

- We **support** the involvement of tangata whenua at a regional level without the mandatory requirement for engagement on every FWFP.
- We **suggest** developing the FWFP system in a way that aligns with other systems and requirements and ensures there is clear delineation between regulated and aspirational components of FWFPs.
- We **oppose** the requirement for mandatory FWFPs without a certification system in place.
- We **support** Option 1, the general setting of outcomes, with separate guidance material as the preferred option in relation to regulated outcomes.
- We **suggest** the inclusion of “taonga of significance to mana whenua”, in the ‘base information’ of freshwater farm plan and guidance – Farm information and maps.
- We **support** Option 1, specifying the minimum general requirements for risk/impact assessment.

- We **oppose** a hybrid Option 3 and instead **support** Option 1 with discretion remaining with the certifier, in relation to identifying actions to address risks/impacts.
- We **support** the management of a certification system at a national level, with the regional appointment of certifiers by regional councils.
- We **agree** that the preparation, certification and audit of FWFPs being paid for by the farm operator is a simple and straightforward system, however we **encourage** the consideration of central government funding for some stages of the process.
- We **support** five yearly re-certification of FWFPs.
- We **support** the implementation of Option 1 – roll out of FWFPs catchment-by-catchment, however, **suggest** that Councils retain discretion over timeframes for implementation by farm type/intensity within a catchment.
- We **support** farm operators being able to opt-in to having a certified FWFP prior to it being mandatory for their farm.

Feedback

For ease of reference, our comments are ordered by the relevant discussion document section(s) and the relevant discussion document questions (although these are sometimes broadly, not specifically, answered). As mentioned, comments are not provided on every section of the discussion document, or on every aspect in those sections which are responded to. Rather, our submission focuses on key matters for WCRC and the West Coast Region.

Discussion Document Section 2.5 Role of Tangata Whenua in the freshwater farm plan system.

Question 2. What information should we consider regarding the role of tangata whenua in the freshwater farm plan system?

WCRC **supports** the involvement of tangata whenua at a regional level. The Council, Te Rūnanga o Ngāi Tahu and Poutini Ngāi Tahu have developed a Mana Whakahono ā Rohe Participation Arrangement. The Council will be working in partnership with Poutini Ngāi Tahu, including drawing on Mātauranga Maori (cultural knowledge) in managing the effects of farm activities on freshwater bodies. The Council has discussed the implementation of the farm plan system proposals with Poutini Ngāi Tahu, and we expect that tangata whenua would not be consulted at an individual FWFP level as this would be particularly onerous for both tangata whenua and farmers. This does not preclude the ability to engage with tangata whenua at an individual farm level if there are specific circumstances when doing so would be appropriate. Additionally, Council supports in principle Poutini Ngāi Tahu aspirations with taking up roles as certifiers and auditors.

Feedback: We **support** the involvement of tangata whenua at a regional level without the mandatory requirement for engagement on every FWFP.

Discussion Document Sections 2.6 A role for industry assurance programmes and other farm plan initiatives in delivering freshwater farm plans, & 2.7 How freshwater farm plans fit with Integrated Farm Planning

Question 3. What other information should we consider regarding the role for industry assurance programmes and other farm plan initiatives in the freshwater farm plan system?

Question 4. What are the likely impacts and cost implications of the proposed approach?

WCRC **supports** the development of FWFPs in a way that aligns with other requirements on farm operators such as greenhouse gas reporting and integrated farm planning, and is built off existing industry led approaches. A system where one farm plan can be developed to meet a range of

regulatory purposes and be a valuable document to the farm operator is preferred, and the development of central systems where the farm operator only needs to enter information once is strongly encouraged. It needs to be ensured that to be of best use to the farmer, the components of the FWFP that are to be regulated (must be complied with and subject to audit) are clearly delineated, allowing for more aspirational goals and plans to be included but not subject to compliance requirements.

Feedback: We **suggest** developing the FWFP system in a way that aligns with other systems and requirements and ensures there is clear delineation between regulated and aspirational components of FWFPs.

Discussion Document Section 2.8 Transition to a fully implemented freshwater farm plan system

Question 5. Do you agree with our proposed approach for transitioning to a fully implemented system? If not, why not?

WCRC considers that it would be preferable to implement the FWFP system once regional freshwater plans are operative, however accepts that there are benefits to getting a FWFP system underway prior to this. In implementing a FWFP system it is important that it is clear to farm operators when their FWFP is required and that it can be of benefit to them. Key is ensuring the FWFP certification system is in place prior to requiring FWFPs and WCRC **opposes** the requirement for FWFPs without a certification system in place. This is particularly important to allow the utilisation of alternative pathways as set out in the National Environmental Standards for Freshwater (NESFW), in relation to intensive winter grazing and stockholding areas. Requiring mandatory FWFPs without these alternative pathways in place will create a non-efficient system of duplication. We estimate there would be up to 600 resource consents needed on West Coast farms under the NESFW if the alternative FWFP pathway is not available.

Feedback: We **oppose** the requirement for mandatory FWFPs without a certification system in place.

Discussion Document Section 3.1 Regulated Outcomes

Question 6. Do you agree with the preferred option for how regulated outcomes could be described in the regulations? If not, what is your preference?

Question 7. What are the likely impacts and cost implications of the preferred approach?

The Discussion Document outlines two options for how regulated outcomes (which cover catchment values and context, ecosystem health and farm practices that respond to environmental needs) are set in the Regulations. Under Option 1 outcomes would be stated at reasonably general levels, and separate guidance on achieving these outcomes would be developed. Under Option 2, more detail on how to achieve the outcomes would be included in the Regulations. In the discussion document Option 1 is outlined as the preferred approach, because the more detailed approach in Option 2 would reduce practicality and make it harder for FWFPs to mesh with other regional council freshwater policies and objectives.

WCRC agrees that flexibility and allowing for regional context are important and as such agrees that Option 1, the general setting of outcomes, with separate guidance material is the preferred option in relation to regulated outcomes.

Feedback: We **support** Option 1, the general setting of outcomes, with separate guidance material as the preferred option in relation to regulated outcomes.

Discussion Document Section 3.2 Farm Planning

Regulated Base Information

Question 8. Does the material in Appendix 1 cover all the base information that should be mandatory for inclusion in freshwater farm plans? If no, what else should be considered and why?

The Discussion Document references in several places waterways in relation to protection and enhancement of mahinga kai, but it would be good to also emphasise the need for pristine water quality for the collection and extraction of pounamu and aotea. Poutini Ngāi Tahu requires high water quality for collection of their taonga, as it would be culturally inappropriate to collect and gift pounamu touchstones or commercially supply pounamu products collected from polluted waterways. The Discussion Document does reference identification of significant sites to tangata whenua, however, 'sites' is too limiting as the above situation involves larger areas/catchments. The regulated base information could be extended to include taonga of significance to mana whenua, to provide for this matter.

Feedback: We **suggest** the inclusion of "taonga of significance to mana whenua", in the 'base information' of freshwater farm plan and guidance – Farm information and maps.

Risk/Impact Assessment

Question 10. Do you agree with our preferred option? If not, what is your preference?

RMA Part 9A section 217F requires a FWFP to "identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems". The Discussion Document proposes this is achieved via a risk/impact assessment of a farm and proposes two options for how the minimum requirements for such assessment would be set out in the regulations.

Option 1 would be to specify the minimum general requirements for a risk/impact assessment, while Option 2 would prescribe the methodology for risk/impact assessment. Option 1 is described as a more flexible approach allowing for tailoring to farms and catchments, while Option 2 is more prescribed. Option 1 is outlined as the preferred approach due to its flexibility, which would allow for adopting the most effective methodologies and adaptation as new technologies and research become available.

WCRC agrees that flexible approaches will best allow for the most appropriate risk/impact assessments to be carried out that can be farm and catchment relevant. Therefore Option 1, specifying the minimum general requirements for risk/impact assessment is supported.

Feedback: We **support** Option 1, specifying the minimum general requirements for risk/impact assessment.

Identifying actions to avoid, remedy or mitigate risks/impacts

Question 13. Do you agree with our preferred option? If not, what is your preference?

Question 14. What are the likely impacts and cost implications of the preferred approach?

The Discussion Document outlines three options in relation to the identification of actions needed to address risks/impacts. Under Option 1, the regulations would include high-level factors for consideration, but would largely rely on the certifier's professional judgement and discretion in determining appropriate actions. Under Option 2 a more detailed approach (likely through prescribed practice standards incorporated by reference) would be included in the regulations. Option 1 is described as more flexible and will deliver tailored farm and catchment specific approaches, while

Option 2 will provide better consistency across the system. The Discussion Document provides a third option, which is outlined as the preferred option, and this is a hybrid between Options 1 and 2, whereby the determination of actions would largely be left to the certifier's discretion, but more prescribed actions could be included for higher risk areas or areas the government seeks more direct control over.

WCRC **does not agree** that Option 3 (the hybrid option) is the best option and considers Option 1 (discussion document pages 26/27), where actions required are determined through the professional judgement of the certifier, to be the better option. This option better allows for a farm and catchment specific response (which may differ between catchments and regions). Provided that there is a robust certification system in place, there should be confidence that certified farm planners determining on-farm options required will deliver on the outcomes sought.

Feedback: We **oppose** a hybrid Option 3 and instead **support** Option 1 with discretion remaining with the certifier, in relation to identifying actions to address risks/impacts.

Discussion Document Section 3.3 Certification & Section 3.4 Audit

Process for accrediting and appointing certifiers in the freshwater farm plan system

Question 16. Do you agree with our preferred option? If not, what is your preference?

Question 17. What are the likely impacts and cost implications of the preferred approach?

Two options for how certifiers are appointed and certified are set out in the Discussion Document. Under Option 1, certifiers would be accredited by a national body and then appointed by regional councils to operate within a region. Under Option 2 each regional council would develop their own regional accreditation and appointment process.

WCRC **agrees** that certification should be managed at a national level to provide consistency and ensure that the costs of set up and management of these systems is not borne by the ratepayer at regional level. Therefore Option 1 is supported.

Feedback: We **support** the management of a certification system at a national level, with the regional appointment of certifiers by regional councils.

Engaging and paying for certifiers & auditors

Question 22/38. Do you agree with our preferred approach? If not, what is your preference?

Question 23/39. What are the likely impacts and cost implications of the preferred approach?

While WCRC is cognisant of the additional cost that the requirement for FWFPs will have on farmers, we **agree** that a simple and straightforward system is for the cost of preparation, certification, and audit of FWFP to be paid by the farm operator. An alternative approach which would decrease the burden on farm operators requiring FWFPs would be for some central funding of the FWFP process, such as funding the preparation and certification of the first FWFP per farm operator. This would help decrease any cost driven reluctance for farm operators to commence the FWFP process. Therefore, WCRC encourages the consideration of central government funding for some stages of the FWFP process.

Feedback: We **agree** that the preparation, certification and audit of FWFPs being paid for by the farm operator is a simple and straightforward system, however we **encourage** the consideration of central government funding for some stages of the process.

Regular review and re-certification

Question 24. Do you agree with our preferred option? If not, what is your preference?

Question 25. What are the likely impacts and costs implications of the preferred approach?

The Discussion Document sets out two proposed timeframes for requiring re-certification of FWFPs and outlines the preferred option as three yearly re-certification.

While WCRC recognises there may be some benefits of three yearly re-certification such as keeping the FWFP a living and up to date document, we consider that these objectives can be met through amendments made to FWFPs as required between certification timeframes (significant change for example). Therefore, WCRC **supports** re-certification on a five yearly basis as it is considered this would be more cost effective, as well as allowing for a longer timeframe for planning and implementation of actions. More frequent audit and amendments for significant changes would ensure that FWFPs stayed relevant during the longer time period.

Feedback: We **support** five yearly re-certification of FWFPs.

Discussion Document Section 6.1 Phasing and Staging

Question 44. Do you agree with our preferred option? If not, what is your preference and why?

Question 45. Should we explore whether it should be possible for farmers and growers to opt into the freshwater farm plan system?

Question 46. What are the likely impacts and cost implications of the preferred approach?

The Discussion Document sets out two options for the roll-out of FWFPs; Option 1 Catchment-by-Catchment, and Option 2 Prioritisation by farm characteristics and risks, with the preference for Option 1 expressed. WCRC **agrees** with the preference for Option 1 as expressed in the Discussion Document. This system will be easier to administer and fits well with the catchment and FMU group model. In a region such as the West Coast that is geographically vast, working through FWFPs by catchment may also lead to efficiencies for certifiers rather than having farms requiring FWFPs scattered across a wide area. It is also noted that by including an opt-in approach (see below), it is possible for a farm operator outside a required catchment to seek a FWFP if desired.

It is noted that this system will capture low risk operations, including small lifestyle block-type farms that are just over the 20ha size requirement (for pastoral farms). WCRC **suggests** that regional councils retain some discretion to allow lower risk properties within a catchment a longer timeframe before a FWFP is mandatory. Retaining discretion for councils around the identification of priority catchments and timeframes for farms within the catchment is important, and discretion in relation to enforcement must remain with the Council.

Feedback: We **support** the implementation of Option 1 – roll out of FWFPs catchment-by-catchment, however, **suggest** that Councils retain discretion over timeframes for implementation by farm type/intensity within a catchment.

Opt-in System

WCRC **supports** an opt-in system of FWFPs that allows farmers to opt-in to having a certified FWFP prior to it being mandatory for their farm. This is critical to efficiencies under the NESFW as discussed earlier, as without the ability to obtain a certified FWFP the alternative to consenting pathway under the NESFW pathway cannot be utilised.

Feedback: We **support** farm operators being able to opt-in to having a certified FWFP prior to it being mandatory for their farm.

End of submission

