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6 October 2021

*Intensive Winter Grazing*  
Ministry for the Environment  
P O Box 10362  
Wellington 6143

Dear Sir/Madam

**Submission on the Discussion Document for Intensive Winter Grazing Regulations**

Thank you for the opportunity to make a submission on the *Managing intensive winter grazing: A discussion document on proposed changes to intensive winter grazing regulations (2021)*.

The West Coast Regional Council's (the Council) submission on the Discussion Document is attached to this letter.

In summary, many of the proposals as set out in the discussion document are supported by the Council. Our submission focuses on the key issues of relevance to the West Coast Region; the main ones being the pugging and resowing requirements. We support the proposed amendment to remove the pugging area and depth requirements, and instead require that farmers have to take reasonably practicable steps to manage the effects on freshwater from pugging. We also support the proposed amendment to remove the resowing date requirement and instead require farmers to resow 'as soon as practicable'. These changes will enable West Coast farmers to take into account local conditions when undertaking their farm operations, and maintaining or improving freshwater quality within or near their farm.

Our submission also raises concerns about some of the proposed changes, and we request changes to some aspects.

**Our contact details for service are:**

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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 line extending to the right.

Heather Mabin  
**Chief Executive Officer**

## West Coast Regional Council comments on “Managing Intensive Winter Grazing: 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 *Managing intensive winter grazing: A discussion document on proposed changes to intensive winter grazing regulations (2021)*.

Our submission focuses on the key issues of relevance to the West Coast Region. Many of the proposals 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 need to make changes in the regulations relating to IWG.
- We **suggest** that the position on the area used for IWG is reconsidered and propose that the cap on existing IWG relates to the amount of land used for IWG during the reference period rather than a specified (50ha/10%) area cap.
- We **support** the proposed amendment to Reg 26(4)(b) to measure the slope threshold as a maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees), providing a mechanism for how maximum slope is measured is also defined. We **support** the Proposed Southland Land and Water Plan definition of maximum slope which measures slope as the average slope across any 20-metre distance.
- We **support** the proposed amendment to Reg 26(4)(c) to remove the area and depth requirements in relation to pugging and instead require that farmers have to undertake good management practices as outlined in national guidance to manage the effects on freshwater from pugging (in areas that are used for IWG).
- We **support** the proposed amendment to Reg 26(4)(d) which will exclude sub-surface drains from the definition of drain.
- We **support** the proposed amendment to Reg 26(4)(e) which will remove the resowing date requirement and instead require farmers to resow ‘as soon as practicable’.
- We **support** the proposed new condition around critical source areas (CSAs), but **request** that guidance documentation provides clarity around the definition of CSAs so that CSAs are only identified where there is clear connectivity to water, rather than every hollow, depression and overland flow path being captured.
- We **agree** that the proposed changes will improve the workability of the permitted activity standards, with some amendments to CSA identification.
- We **support** the proposed deferment of the IWG regulations until November 2022. We **suggest** that it is critical that the certified FWFP pathway is in place by the time the regulations commence.

### Feedback

For ease of reference, our comments are ordered by the relevant discussion document section(s) and the related discussion document questions.



## Discussion Document Section 2: Why are we proposing changes?

*Question 1. Do you agree with our framing of the issue? If not, why not?*

The Council agrees that changes are needed in the NES-F in relation to IWG. As outlined in the discussion document there are impracticalities in implementing the current regulations and they will result in a large number of resource consents which was not the intention of the regulations. For the West Coast, these impracticalities are particularly around current pugging and resowing date requirements. Further, the current regulations will not always provide for the best outcomes relating to the effects of IWG activities on freshwater. In some places the activity would be better managed through a Freshwater farm plan (FWFP) to allow farm and catchment specific actions and outcomes. As noted in the discussion document this pathway is not yet available.

**Feedback:** We **support** the need to make changes in the regulations relating to IWG.

*Question 2. What other information should we consider?*

The discussion document raises discussion around CSAs which are not managed through the current intensive winter grazing regulations but are proposed to be included through the changes. The way that CSAs are defined will be especially relevant on the West Coast where there are a lot of hollows in humped and hollowed paddocks, and overland flow paths which move water during heavy rain events. Capturing these features as CSAs may not improve the workability of the IWG regulations for the West Coast and this should be considered if making any changes to the regulations to include requirements around CSAs. This is further discussed, and specific feedback given under Question 4 below.

*Question 3. Are there any implementation issues with the current default conditions that have not been discussed above?*

WCRC has no additional implementation issues with the current conditions to suggest. The Council's views on the various proposals are discussed in our responses to the questions below.

## Discussion Document Section 3: What is being proposed?

*Question 4. Do you think these proposed changes are the right way to manage intensive winter grazing? If not, why not?*

The Council's view on each of the proposed amendments is outlined below.

### Proposed Amendment

**Reg 26(4)(a):** No change (i.e., 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).

The Southland Intensive Winter Grazing Advisory Group (SAG) has raised concerns about this restriction driving the wrong behaviour, such as farmers undertaking IWG more intensively to stay within limits rather than in a way that best manages effects (such as lower yielding crops or mixed species with lower intensity over a wider area). The discussion document recognises this but advises that officials are not proposing amendments to the current condition as controls on the extent of IWG are considered important and that it is still possible to apply for a resource consent to expand activities.

The Council agrees with the issues raised by the SAG and suggests that amending the condition is reconsidered. The regulation could still control expansion but could remove the cap from existing IWG so that the regulation required IWG as a permitted activity to be no greater than the highest annual amount of land used for IWG during the reference period (01 July 2014 – 30 June 2019).

**Feedback:** We **suggest** that the position on the area used for IWG is reconsidered and propose that the cap on existing IWG relates to the amount of land used for IWG during the reference period rather than a specified (50ha/10%) area cap.

#### Proposed Amendment

**Reg 26(4)(b):** Amend to measure the slope threshold as maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees).

The WCRC **supports** the proposed change. The change to a maximum slope provides more clarity for determining compliance. We are not aware of IWG commonly being undertaken on humped and hollowed land, as it is usually on flatter land. However, it would be appropriate for any IWG on higher sloped humped and hollowed areas to be managed through a FWFP or a resource consent, and the proposed change does not preclude these options.

The Council also notes that it is important that a mechanism for measuring maximum slope is provided. Therefore, we also support the definition of maximum slope based on the Proposed Southland Land and Water Plan which measures slope as the average slope across any 20-metre distance.

**Feedback:** We **support** the proposed amendment to Reg 26(4)(b) to measure the slope threshold as a maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees), providing a mechanism for how maximum slope is measured is also defined. We **support** the Proposed Southland Land and Water Plan definition of maximum slope which measures slope as the average slope across any 20-metre distance.

#### Proposed Amendment

**Reg 26(4)(c):** 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.

The WCRC **supports** the proposed change. The current regulations impose conditions requiring pugging across no more than 50% of a paddock, and no more than 20cm deep at any point. These regulations would be difficult to regulate, as well as impractical to achieve. The proposed change will allow for the appropriate management of IWG areas in line with good management practices and what is reasonable and practical at a site. The Council considers that in line with the overall changes proposed (including that around CSAs discussed later) the proposed change will still provide for the appropriate management of the effects of IWG activities.

**Feedback:** We **support** the proposed amendment to Reg 26(4)(c) to remove the area and depth requirements in relation to pugging and instead require that farmers have to undertake good management practices as outlined in national guidance to manage the effects on freshwater from pugging (in areas that are used for IWG).



Proposed Amendment

*Reg 26(4)(d): Amend the definition of 'drains' to exclude sub-surface drains (as originally intended). Manage sub-surface drains (where known to exist) through critical source areas (see proposed new condition below).*

The proposed change to exclude sub-surface drains from the definition of drain is not significant for the West Coast. However, the proposed change makes sense and is therefore supported.

**Feedback:** We **support** the proposed amendment to Reg 26(4)(d) which will exclude sub-surface drains from the definition of drain.

Proposed Amendment

*Reg 26(4)(e): Remove the requirement to resow by 1 October (1 November in Otago and Southland) and, instead, require farmers to resow 'as soon as practicable', i.e., 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 (e.g., companion planting) are included. 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.*

The WCRC **supports** the proposed change. The current regulations impose a resowing date of 01 October which is highly impractical on the West Coast and would make it near impossible for farmers to comply with the regulation. The proposed change to instead require farmers to resow 'as soon as practicable' will better allow for paddocks to be resown when ground conditions are suitable (i.e., not too cold or too wet). It is also noted that this change recognises that farmers aim to resow paddocks as soon as possible and practicable, as this is more beneficial for their overall farm pasture growth and systems.

**Feedback:** We **support** the proposed amendment to Reg 26(4)(e) which will remove the resowing date requirement and instead require farmers to resow 'as soon as practicable'.

Proposed Amendment

***New condition:** Include a new condition requiring that critical source areas must be protected (uncultivated and ungrazed). See the proposed definition of critical source areas in table 1. Officials will develop guidance to ensure that farmers and councils have a shared understanding of how critical source areas will be identified and protected.*

While WCRC agrees that CSAs should be identified, the proposed new conditions could have implications for the West Coast, particularly around the definition of CSAs. Two possible definitions are proposed in the discussion document.

The first proposed definition is from the *Proposed Southland Water and Land Plan (Decisions Version, 4 April 2018)*, p.105, which defines a CSA as:

- (a) a landscape feature like a gully, swale or a depression that accumulates runoff (sediment and nutrients) from adjacent flats and slopes, and delivers it to surface water bodies (including lakes, rivers, artificial watercourses and modified watercourses) or subsurface drainage systems; and
- (b) areas which arise through land use activities and management approaches (including cultivation and winter grazing) which result in contaminants being discharged from the activity and being delivered to surface water bodies.

The second proposed definition is from the Freshwater farm plan regulations: Discussion document (Ministry for the Environment and Ministry for Primary Industries, 2021), p.47, which defines a CSA as:

Critical source areas (CSAs) are hydrological (or physical) features in the landscape where water flow naturally accumulates and where there is a connection to water.

Both the proposed definitions could capture hollows and overland flow paths, which are common on West Coast farms, within the definition of CSAs. The Council notes that it is proposed in the discussion document that guidance documentation is developed to provide clarity around the identification of CSAs. The Council suggests that this guidance documentation provides clarity so that CSAs are identified where they can be defined with clear connectivity to water rather than capturing every hollow, depression and flow path created by land contouring. It is also critical that the certified FWFP pathway is available by the time that the IWG regulations take effect, so that where there are CSAs they can be managed through FWFPs where appropriate rather than requiring resource consent.

**Feedback:** We **support** the proposed new condition around CSAs, but **request** that guidance documentation provides clarity around the definition of CSAs so that CSAs are only identified where there is clear connectivity to water, rather than every hollow, depression and overland flow path being captured.

*Question 5. Do you think these proposed changes would improve the workability of the permitted activity standards? If not, why not?*

WCRC agrees that the proposed changes, particularly around pugging and resowing dates, will improve the workability of the conditions. The current regulations make achieving the permitted activity standards highly impractical, meaning many farmers would need to obtain a resource consent which is not understood to be the purpose of the regulations. The proposed changes will significantly reduce the number of resource consents required by West Coast farmers, providing CSAs are appropriately identified.

**Feedback:** We **agree** that the proposed changes will improve the workability of the permitted activity standards, with some amendments to CSA identification.

*Question 6. Do you think the proposed changes would manage adverse environmental effects of intensive winter grazing effectively? If not, why not?*

The WCRC has no specific suggestions on this matter. The Council notes the best management of adverse environmental effects of intensive winter grazing differs by farm and features within or near to the IWG area. When taken as a whole, the proposed changes will allow for better farm specific management. Particularly the addition of a condition around CSAs will allow for better focus on areas that may readily transport contaminants out of an IWG area (provided CSAs are appropriately identified as discussed earlier), rather than blanket pugging and resowing date rules.

*Question 7. Do you have any comments on implementation timeframes and whether a further deferral would be necessary?*

The Council **supports** the proposed deferment of the IWG regulations from May 2022 until November 2022. Commencing the regulation in May, by which time crops are already planted and established, and in some cases grazing of them is commencing, does not make sense. Deferring until November will allow farmers to be clear on what the regulations are and plan their IWG activities for the following winter in accordance with the regulations. It is important that the certified FWFP pathway is in place

by the time the regulations commence, so that where permitted activity regulations cannot be met but it is appropriate to manage the activity via a FWFP, this is available and does not trigger unintended resource consenting requirements.

**Feedback:** We **support** the proposed deferment of the IWG regulations until November 2022. We **suggest** that it is critical that the certified FWFP pathway is in place by the time the regulations commence.

End of submission