

FACTSHEET

# The Government's consultation on changes to the intensive winter grazing regulations

## B+LNZ's assessment and guidance to farmers on making a submission

September 2021



The Government has also been consulting on other aspects relating to the essential freshwater package – see also the separate factsheets on changes to the [low-slope map for stock exclusion](#) and the [freshwater farm planning approach](#).

**Note: B+LNZ has consulted with Federated Farmers and DairyNZ and our positions are broadly aligned when considering the content in this factsheet.**

The following is a summary of the Government's proposed changes to the intensive winter grazing regulations in the National Environmental Standards for Freshwater (NES-FW). These changes make adjustments to:

1. the permitted activity standards (or default conditions) farmers need to meet if they don't want to apply for a resource consent, and
2. the timing of these national rules coming into effect (now proposed for 1 November 2022).

The changes aim to make the rules more workable and therefore easier for farmers to implement.

Intensive winter grazing is an important part of some farming businesses but is a potentially high-risk activity in terms of environmental effects and there has been public concern over the issue.

New rules to address the concerns over intensive winter grazing were introduced in August 2020 as part of the Government's 'Essential Freshwater' package. However, aspects of the rules were impractical and unworkable for farmers, and from a science-based perspective were not the best way to manage risks. There was a significant amount of apprehension raised on the ground and by industry groups such as B+LNZ. The Southland Intensive Winter Grazing NES Advisory Group (which included B+LNZ and farmers) took a collaborative cross-sector approach, and provided advice to Ministers about practical alternatives – their report was released in December 2020.

In March 2021, Ministers announced the implementation of the rules would be delayed. Since then, regional councils, farmers and industry groups have undertaken increased monitoring and performance, as requested by Ministers. Officials have also been reviewing the regulations, resulting in this consultation which proposes changes to these national rules and a further delay to those regulations.

## Permitted activity standards

There are three pathways farmers can follow if they want to continue to undertake intensive winter grazing.

- **Pathway 1:** intensive winter grazing activities are *permitted if a farmer complies with the default conditions* set out in the NES-FW.
- **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).
- **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.

Note that farmers wanting to expand their winter grazing activities (as compared to the greatest area used between 2014 and 2019) will continue to need to apply for resource consent regardless. Note also that where regional councils have specific rules for managing winter grazing, the more stringent rules will apply.

Long-term, once certified freshwater farm plans are available and being implemented successfully, the Government 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 having a certified freshwater farm plan that achieved the same outcomes as the default conditions (with no change to the resource consent pathway).

In the shorter term, however, the Government has proposed changes that aim to make the default conditions more practical to comply with.

## Summary of proposals

Default condition	Proposed action	Result
Limit of area used for winter grazing	No change	This remains at 50 hectares or 10 percent of the farm, whichever is greater.
Slope threshold	Change	To measure the slope threshold as maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees).
Pugging depth	Remove	Farmers have to take “reasonably practicable steps” to manage the effects on freshwater from pugging in areas that are used for intensive winter grazing.
Drains	Change	Definition of ‘drains’ will now not include sub-surface drains – sub-surface drains will now be managed through critical source areas (see new condition below).
Resowing date	Remove	Remove the requirement to resow by 1 October (1 November in Otago and Southland) and instead require farmers to resow ‘as soon as practicable’.
Critical source areas	New	Critical source areas must be protected (uncultivated and ungrazed).

## Timing

The Government is also proposing a further deferral to the commencement of the intensive winter grazing regulations. The regulations would come into effect 1 November 2022 (rather than 1 May 2022). The additional postponement is in return for regional councils and the farming sector, as represented by industry-good organisations such as B+LNZ, committing to:

- continuing to improve intensive winter grazing practice by rapidly deploying an intensive winter grazing farm planning module that will be a prototype for inclusion in the certified freshwater farm plans currently under development; and
- undertake increased monitoring and reporting to ensure there are measurable improvements in intensive winter grazing practice during the year.

You can find out more about this consultation on the Ministry for the Environment (MfE) website here: [Consultation page](#)

Or access the discussion document directly here: [Discussion document](#)

This factsheet also contains B+LNZ’s guidance for farmers on how to make a submission as part of the consultation process.

## **B+LNZ's assessment of the proposals**

The Government is proposing to adopt many of the changes to the regulations as recommended by the Southland Advisory Group (which B+LNZ was a part of) in December 2020. We have welcomed the progress and noted that the Southland group was a highly successful collaborative effort that resulted in sensible, practical recommendations.

Many of the changes proposed by the group, and now adopted by the Government, place a greater focus on using the 'best option' available to follow good management practices. This better provides for the flexibility required to manage the risks associated with intensive winter grazing as an integral part of a biological farming system.

We are particularly pleased that the Government is proposing to replace the unworkable pugging and sowing date rules with a practical management approach.

However, we still have concerns about some aspects of the rules.

### **Comment 1: Slope rule**

The Government has proposed a change to the slope rule from a maximum average slope as measured across a paddock to a maximum actual slope as measured within a paddock. This provides greater clarity than in the previous version of the rules and will be much easier to assess at farm-scale. However it is more stringent than what was originally proposed.

What's proposed still puts our hill country farmers at a disadvantage for implementing pasture renewal programmes on their steeper farmland. In order to undertake winter grazing on land over 10 degrees slope, farmers will need to have a certified freshwater farm plan or apply for resource consent.

We have already heard from farmers who are unsure about what steps they could take to show how they're managing the risks of cropping and grazing on slopes over 10 degrees.

We are unsure if the new rule is more restrictive than it needs to be to manage the environmental risks. We will continue to assess the best science we have to determine whether or not we support the proposal put forward by MfE. Regardless, we'd like to see flexibility in going above this 10 degree slope threshold where there is no receiving waterbody nearby. (Note that Federated Farmers will be seeking a direct change in the slope trigger from 10 degrees to 15 degrees).

### **Comment 2: Role of freshwater farm plans**

Our view is that the use of freshwater farm plans as a practical pathway through regulation is, in theory, a positive option. However, it will very much depend on the standards and implementation.

Moving farm plans into a regulatory space is a significant change and brings with it a range of challenges – not least ensuring that they remain practical, flexible and outcomes-based (as opposed to input-based) and genuinely effective on-farm management tools that guide decision-making and provide for innovation and adaptation (see also [our submission on the certified freshwater farm plan proposals](#)).

Using freshwater farm plans in the intensive winter grazing rules in this way will show that tailored farm planning can better manage adverse effects than blanket rules. This has big implications for the flexibility of your farm business into the future, and as a sector we need to show that farm planning works.

We welcome the six-month further deferral of the application of the winter grazing rules to allow time for the freshwater farm plans to be put in place and for this to be an alternative pathway for farmers needing to get a consent.

However, we need to better understand the certified freshwater farm plan process as it relates to intensive winter grazing. While B+LNZ supports a farm plan approach that provides alternative pathways to more prescriptive regulation, the real value in this approach lies in it being targeted and administratively simple. We won't know if we are unlocking this value until we see the wording in the regulations.

We are worried that the freshwater farm planning framework will not be up and running in time for farmers to utilise this option and we do not have a good handle on what content requirements there will be. We want to work with farmers and central government officials to provide the flexibility that farm plans provide as quickly and effectively as possible.

Additionally, we are concerned that farmers would need to complete the entire certified freshwater farm plan rather than a component of the freshwater farm plan focusing on intensive winter grazing activities – the Southland Advisory Group only recommended farmers undertake the intensive winter grazing module. Although we understand all farmers could be required to adopt a certified freshwater farm plan over time, we are interested in finding ways to make the transition more practical.

### Comment 3: Further guidance to be developed

The discussion document notes that officials will develop guidance to ensure farmers and councils have a shared understanding of:

- what reasonable and practicable steps are to manage the effects from pugging
- what steps could demonstrate that farmers were resowing as soon as practicable (i.e. in order to minimise the amount of time that bare ground is exposed to the weather)
- the definition of winter annual forage crops (to be clear on whether arable crop grazing after harvest is included)
- clarification that crop and pasture species that can become established without resowing can be provided for within the 'resowing as soon as practicable' requirements
- how critical source areas will be identified and protected
- how a certified freshwater farm plan can demonstrate that the likely effects are being effectively managed
- who is able to use the certified freshwater farm plan pathway.

B+LNZ will be submitting that farmers and their representatives should be involved in the development of that guidance to ensure it is fit for purpose.

### What to make a submission on

The discussion document for the consultation asks seven questions (listed together on page 17 of the discussion document). These are a guide only and you don't have to answer any/all of them when making your submission.

We recommend you think about how the proposed new rules would apply to you and you could base your submission on how easy the rules would be to implement, noting that you need clarity on what you need to do and how to do it.

We are also looking at developing a submission template for farmers.

### How to make a submission

There's detailed information on page 15 of the discussion document but, in summary, you can either:

- make a submission on MfE's consultation hub at <https://consult.environment.govt.nz> or
- write your own submission – note that uploading a file of this in the consultation hub is preferred, and there are some requirements around what to include if you provide a written submission and around what format to use if you send your submission by email. You can send an email to [IWG@mfe.govt.nz](mailto:IWG@mfe.govt.nz)

Submissions must be made before the consultation closes on **Thursday 7 October**. Remember to explain your reasons for any feedback you provide and include supporting evidence where appropriate.

### What next

B+LNZ has started work on a detailed submission on the proposals – we'll continue to refine our analysis and test our points with B+LNZ's Environment Reference Group and other groups as required.

We will publish our submission but this is unlikely to be before the consultation closes. If you want to make a submission, this factsheet (or the template we're working on) should be enough to help guide you.

### More information

Questions about the consultation should be directed to MfE in the first instance – you can email [IWG@mfe.govt.nz](mailto:IWG@mfe.govt.nz)

If you want to contact B+LNZ, email [enquiries@beeflambnz.com](mailto:enquiries@beeflambnz.com)

Note that B+LNZ provides a range of resources on winter grazing – go to the Knowledge Hub on our website [www.beeflambnz.com](http://www.beeflambnz.com) or keep an eye out for a workshop near you.