Draft Stock Exclusion Section 360 Regulations

The following proposals will be considered for drafting as a regulation after consultation, taking into account the feedback received during consultation and the decisions of Ministers. The description and tables below set out what obligations are proposed to apply to what activities. For more explanation about the proposals, see the Regulatory Impact Statement and pages 73–76 of the discussion document Action for Healthy Waterways.

Information notes

1. These proposals will not apply to rivers less than one metre wide.
2. On land that is not “low-slope”, these regulations would apply only to high-risk pastoral activities (feeding stock on irrigated pasture or fodder crops) or land with a base carrying capacity of the stated stocking rates. The base carrying capacity is a proxy for the stock the land could carry in an unimproved state.
3. On land that is not “low-slope”, stock would only be excluded from rivers and lakes where the regulation is triggered, for example, where the carrying capacity is high. We are seeking feedback on the appropriate methodology for calculating the base carrying capacity.
4. We are seeking feedback on appropriate criteria for allowing exemptions from the regulations, for example, a river cannot feasibly be fenced.

General stock exclusion requirements

a) Dairy and beef cattle, and pigs, are not permitted to cross water bodies except by a dedicated culverted or bridged cross point (unless that crossing is no more than twice per month).

b) Where an existing fence does not comply with setback requirements, it shall be allowed to remain in its current positions until 2035, unless the existing setback has a minimum 2 metre average width and is not less than 1 metre at any point, in which case the setback requirements do not apply until 2035.

c) Landowners may seek an exemption from stock exclusion requirements, or an extension of the phase-in timeframes.

d) The following definitions apply

i. Carrying capacity: means as specified in The Rules for Assessment of Carrying Capacity of Crown Pastoral Land (Rents for Pastoral Leases) published on LINZ’s website [https://www.linz.govt.nz/regulatory/30302]

ii. Dairy cattle: means cattle farmed for milk production, and

   1. includes unweaned calves of dairy cows, and bulls on the farm whose purpose is mating with dairy cows; and
   2. includes dairy cattle not being milked (young animals or mixed-aged cows) that are grazed off the milking platform either temporarily or throughout the year; and
   3. does not include cattle farmed for beef production, or dairy support.

Draft proposals for excluding stock from lakes, rivers and wetlands - for consultation
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COMMENTS AND RECOMMENDATIONS

iii. **dairy support** means dairy cattle that are not being milked (young animals or mixed-aged cows) that are grazed off the milking platform (ie, the area devoted to feeding dairy cows on a daily basis during the milking season) either temporarily or throughout the year.

iv. **effective hectare** means the area of a farm on which animals are grazed.

v. **low-slope land** is land that is classified as low-slope land on the NES mapping tool [available on-line]. The map shows land parcels where the average slope at the land parcel scale is less than or equal to 5 degrees [less than or equal to 7 degrees, less than or equal to 10 degrees]

vi. **non-low-slope land** is land that is not classified as lowland on the NES mapping tool [available on-line] and where the average slope at the land parcel scale is greater than 5 [7, 10]degrees.

vii. **river**: as defined in the RMA and excludes ephemeral streams

viii. **setback**: means the distance from the edge of the bed [or edge of the mean annual wetted bed] to the exclusion mechanism (eg fence) as averaged across each river or lake on a property

ix. **wetland**: For the purposes of this policy means a wetland as defined in the Resource Management Act (regardless of whether it is dominated by indigenous or exotic vegetation), except that it does not include
   1. wet pasture, or paddocks where water temporarily ponds after rain in places dominated by pasture, or that contain patches of exotic sedge or rush species; or
   2. constructed wetlands; or
   3. geothermal wetlands

**Note**: this definition is the same as the definition of a *natural wetland* in the National Policy Statement for Freshwater Management, and the National Environmental Standard – Freshwater

Comment [O5]: ESAl does not support the use of slope degree in relation to stock exclusion. Run off from paddocks does not occur in a widespread ‘sheet-like’ pattern in lowland areas – it relates more to critical source areas.

Comment [O6]: ESAl recommends that this definition should relate to the mean annual wetted area of the waterbody as the term ‘bed’ can be misconstrued to mean to the top of a historic bank. In spring fed streams the banks can be some considerable distance from the wetted area.
Stock exclusion on “Low-slope” land

<table>
<thead>
<tr>
<th>Waterbody</th>
<th>Stock</th>
<th>Setback</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland</td>
<td>Dairy and dairy support cattle, pigs, beef cattle and deer</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2021 for wetlands identified in regional or district plans. 1 July 2023 for all other wetlands</td>
</tr>
<tr>
<td>Wetland</td>
<td>Any new pastoral system for all cattle, pigs or deer establishing after gazetal</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>Immediately</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Dairy and dairy support cattle and pigs</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2021</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Beef cattle and deer</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2023</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Any new pastoral system for all cattle, pigs or deer establishing after gazetal</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>Immediately</td>
</tr>
</tbody>
</table>
| Rivers (> 1 m wide), and lakes | Land where any cattle or deer are feeding on fodder crops, or break feeding, or where pasture is being irrigated, or has been irrigated in the previous 12 months. | 5 metres on average across a property (with a minimum width of 1m) | 1 July 2021

Unless it is a new pastoral system established after gazetal, in which case, immediately
ESAI considers the proposed timeframes and requirements are inappropriate. The investment required is significant and the setbacks applied are based on a ‘one size fits all’ approach. ESAI members have been, and continue to be, highly involved with riparian fencing and planting projects. These projects attract good farmer ‘buy-in’ when handled in conjunction with Environment Canterbury and iwi representatives. Such projects have given rise to varied setback fencing distances and the implementation of effective non-uniform planting types, densities and placement. Requiring a specific setback distance and only native planting does not meet the variety of stream needs in many places. Each stream and waterbody requires careful consideration and site specific treatment.

Fencing and riparian restoration projects remain successful in Ellesmere largely because of the site by site approach and careful planning. As an example the latest stream fencing and planting project along Harts Creek has taken 12 months to plan, fence and plant one 600m reach on one side of the creek. This time frame is the efficient norm. This latest restoration of Harts Creek cost $20,500. To require everyone to achieve fencing and planting all their stream boundaries in the time frames set out above would result in almost no funding from off-farm sources, the inability of skilled fencing contractors to deliver within time frames, lack of farmer support, no time to save for such investment and failure to meet regulatory requirements. This in turn would cause increased stress and Farm Environment Plan auditing issues. While many have already permanently fenced the waterways in this area there is still much to do.

It is also important to note that riparian margins do require planting with either native or exotic plants (note that native birdlife thrive on exotic tree species such as protea, viburnum, red flowering gum, and pyracantha) otherwise they become over run with weeds. In answers to questions about grass and weed growth in this space on the MfE website, it was stated that sheep can be grazed in these areas. The expectation that all farmers should now all run sheep in riparian setbacks is neither logical or practical and would require all farmers to erect woolsheds and appropriate stock yards when their farming systems may not be geared for this development. This suggestion is not a practical answer and it demonstrates a lack of understanding of farming systems or activities at ground level.

There are also waterways in our catchment that are regularly cleaned by the Council to ensure flooding does not occur in the Leeston, Doyleston and Southbridge Townships. This has been a directive from the former Drainage Board days. In an example near Leeston township, the new rules proposed above would see an existing permanent fence having to be moved back to 5m from the Creek. If this was to happen then the digger would not be able to undertake the clearance works to prevent the flooding of the township. The digger reach would not be long enough. Averaging across a paddock would not alleviate the problem and would likely result in wastage of productive land for no environmental gain e.g. 8-10m setback where there is no sediment issue or need to exclude stock. While exemptions might be able to be applied for, this again simply results in more delays, more expense and ultimately less time spent on practical improvements.

1 Native trees that are used for riparian shading of waterways are slow growing and do not always reach a height that effectively shades the creek to minimise weed growth. Exotic trees do this more effectively and also harbour native birdlife.

2 There are only a handful of these projects in our area happening at once mainly due to farmer concentration on regular rule changes, meeting all the on-farm requirements and the availability of funding. Farmers would much rather undertake effective on the ground projects than constantly having to invest in proving they are farming efficiently and in an environmentally responsible way.
The proposed regulations also indicate a pronounced emphasis on low slope farmers being responsible for rectifying waterway quality issues while others not directly adjacent to waterbodies are not contributing to funding these desired outcomes. It has long been our experience in the Ellesmere region that the water quality in the waterways is already affected by large scale intensification on poorer free draining soils in the upper western catchment (west of State Highway 1). To expect those immediately adjacent to the waterways to ‘foot the bill’ for the entire catchment is extremely onerous and creates divisions within communities. Therefore the preference is for these works to be undertaken as a project in conjunction with regulatory authority and iwi funding and input.

**ESAI recommends that stock exclusion rules/regulations are developed at the regional level and are clearly specified as being under the control of the regional authority. FEPs work well in dealing with these matters as well.**
## Stock exclusion from waterways on Non-low-slope land

<table>
<thead>
<tr>
<th>Waterbody</th>
<th>Stock or land use</th>
<th>Setback</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland</td>
<td>Dairy and dairy support cattle, pigs, beef cattle and deer</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2021 for wetlands identified in regional or district plans. 1 July 2023 for all other wetlands</td>
</tr>
<tr>
<td>Wetland</td>
<td>Any new pastoral system for all cattle, pigs or deer establishing after gazettal</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>Immediately</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Dairy cattle, but not dairy support, and pigs (unless housed)</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2021</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Beef cattle, dairy support cattle, and deer on land with a base carrying capacity • of 14SU/ha or more at the farm scale, or • 18 SU/ha or more at a paddock scale if the base carrying capacity is less than 14SU/ha at the farm scale</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2023</td>
</tr>
<tr>
<td>Rivers (&gt; 1 m wide), and lakes</td>
<td>Land where any cattle or deer are feeding on fodder crops, or break feeding, or where pasture is being irrigated, or has been irrigated in the previous 12 months.</td>
<td>5 metres on average across a property (with a minimum width of 1m)</td>
<td>1 July 2021</td>
</tr>
</tbody>
</table>

Comment [08]: See comments above.