Federated Farmers of New Zealand (Southland)

Submission on the Action for Healthy Waterways Proposals

31 October 2019
SUBMISSION TO THE MINISTRY FOR THE ENVIRONMENT

To: Ministry for the Environment
Consultation.freshwater@mfe.govt.nz

Name of submitter: Federated Farmers of New Zealand (Southland)

Date: 31 October 2019

CONTACT DETAILS:

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<th>Southland Provincial President</th>
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1 INTRODUCTION

1.1 The Southland Branch of Federated Farmers of New Zealand Inc. (Southland Federated Farmers) welcomes the opportunity to provide feedback to the Ministry for the Environment on the proposed regulatory package “Action for healthy waterways: A discussion document on national direction for our essential freshwater” and the three accompanying draft regulatory proposals comprising the Draft National Policy Statement for Freshwater Management, the Proposed National Environmental Standard for Freshwater and the Draft Section 360 Stock Exclusion Regulations (the reform package).

1.2 Federated Farmers has sought feedback with a number of its members to gauge their opinion on the reform package and how it will impact their farming businesses, families and the wider Southland economy.

1.3 Southland farmers value freshwater quality and are committed to playing their part in delivering improved freshwater outcomes. Farmers have demonstrated this through investment in environmental spending and mitigation, and development of farm and catchment focused solutions. However, our members are opposed to some key issues of the reform package as the framework is unworkable at a farm level, or it will not deliver on aspirations for water quality equitably across differing classes of farming, the rural and urban communities or the SOE’s.

1.4 Southland Federated Farmers acknowledge and fully supports the submissions by the National Federated Farmers office. Our submission is to be read in conjunction with that broader submission, and has focused on the key concerns that will disproportionately impact Southland communities.

2 CONTEMPLATION OF ALL FOUR WELLBEINGS

2.1 Southland Federated Farmers considers that the social and economic impacts of the proposals have been largely discounted whilst environmental and cultural considerations have been given primacy in terms of the policy framework. It is our view economic and social implications on the Southland community should be thoroughly assessed and incorporated into the reform package.

2.2 The impacts of overlooking economic and social consequences are important and will hurt both the Southland urban and rural economy, and diminish the resilience of the community. Agricultural production, the processing and retail of that production, and services to agriculture remain a core component of New Zealand’s economy. At a national level, the food
and fibre sectors contribute over $46.4 billion in export revenue, and collectively account for 11% of New Zealand’s GDP.\(^1\)

2.3 For Southland, the reliance on agricultural production, processing and services to agriculture (relative to other sectors), the impacts of any reductions in agricultural production will be significantly greater. For the 2017 year Southlands value derived from agriculture was $890 million, and contributed 16.36% of the regional GDP.

2.4 The economy and outlook of the Southland community correlates with agricultural market pricing. To illustrate, when dairy milk solid returns are depressed, the entire Southland retail and services sector experiences a pronounced downturn as discretionary spending is curtailed. This hurts all Southlanders, and there is concern the reform package in its current form will depress regional growth.

2.4 Southland Federated Farmers seek a more balanced suite of regulation proposals that considers regional nuances and addresses all four well-beings equitably.

3 SOUTHLAND SHOULD BE EXEMPT FROM ESSENTIAL FRESHWATER PROVISIONS

3.1 Southland Federated Farmers concerns for Southland's economy, should these proposals proceed in their current form, are reinforced by DairyNZ’s economic analysis of the proposed policies. DairyNZ’s modelling shows that Southland will bear the highest GDP impact in New Zealand as a result of these policies and the zero carbon bill.

3.2 A lot of excellent work has been done in Southland to drive growth and attract people to the region through the highly regarded Southland Regional Development Strategy. This is beginning to bear fruit with several projects financially backed by the Government's Provincial Growth Fund, population growth of 4.4% between the last two Census’, and a consistently low unemployment rate which proves that the province has plenty of opportunities available for its existing residents plus additional newcomers.

3.3 An innovative approach to welcoming newcomers to the region is being driven by the Welcoming Communities programme, and the regional development agency has reformed and refocused under the new Great South banner. All of this risks being severely undermined by rushed and under-analysed policy that will severely injure the economic heart of the province.

3.4 The Southland Water & Land Plan, which seeks to "hold the line" on water quality until limit setting, is well through its appeal process and will likely become fully operative during

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2020. This has been developed through a very robust consultation process with huge community input, and will be further strengthened by mediation on the rules which will, in all likelihood, iron out some of the kinks regarding practical implementation.

3.5 Progress towards limit setting is also underway through a very robust, community minded process. A cross-community Regional Forum has been established and is meeting regularly, with the task of providing advice to Council on how to achieve the community's aspirations for freshwater through limit setting. The timelines for the Forum have been established to ensure that a revised plan can be achieved for limit setting by the 2025 deadline.

3.6 Therefore, we seek that Southland be exempted from the Essential Freshwater provisions - we already have a plan to hold the line, and we are on track for limit setting. The disproportionate impact on the region of the reform package is counter-productive and cannot be justified when a locally developed plan exists which will achieve better outcomes, while being locally relevant and ultimately achievable.
SPECIFIC SUBMISSION POINTS

Southland Federated Farmers’ submissions on the proposed package are set out below, along with decisions sought, and alternative proposals recommended. In addition to our specific feedback itself, we also request that any consequential amendments are also made to give effect to those submissions.

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<th>The specific provisions of the Proposal that my feedback relates to are:</th>
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<td>Oppose/ support</td>
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SPECIFIC FEEDBACK ON THE ACTION FOR HEALTHY WATERS PROPOSAL DOCUMENT

SECTION 4: SET AND CLARIFY POLICY DIRECTION

4 Exemptions for major hydro-electric schemes from some freshwater management requirements (NPS-FM) | Oppose | Southland Federated Farmers strongly opposes the proposed exemptions for the hydro generators. The exemptions will remove any compulsion for key hydroelectric generators to improve water quality. The consequences will be felt particularly strongly in the Waiau catchment within Southland given the Manapouri Hydroelectric Scheme is a fully consumptive take. The exemptions approach elevates the hydroelectric generation of electricity above all other considerations and will fail to give effect to Te Mana o te Wai. The exemptions will provide no incentive for the specified hydro scheme operators to improve water quality. |
<p>| | | Federated Farmers strongly opposes the exemptions proposed for the six largest hydro-electricity schemes from the NPS-FM. We seek the removal of the exemptions. Alternatively, at the very least, we seek the removal of Manapouri Hydroelectric Scheme from the list of schemes with exemptions. Its impact on the water source differs greatly from the other schemes due to its consumptive take. Federated Farmers consider all resource users should contribute equally to improve water quality and quantity. Federated Farmers considers State owned assets should also be carried out in a manner consistent with Te Mana o te Wai. |</p>
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<td>quality or quantity during any re-consenting process or when FMU values are contemplated. The proposed exclusion will significantly impact those living and operating businesses in the catchment as they would be required to shoulder the burden of regulation to mitigate the impact of the Scheme. We agree with the views of the Governments advisory groups the Freshwater Leaders Group, Te Kahui Wai Maori, the Science and Technical Advisory Group, and the Regional Sector Water Subgroup who also all opposed the proposed exemptions.</td>
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<td>7 Higher standards for swimming in the summer</td>
<td>Support Southland Federated Farmers has always promoted a focus on swimmability in the place, and in the time of year, where people want to swim in them. The proposed reforms proposes action plans to reach E.coli targets at a range of key swimming spots. Southland Federated Farmers considers the issue of E.coli sourced from wildfowl will negate any ability to meet these higher standards. The Institute of Environmental Science and Research (ESR) for Environment Southland recently released the findings of the sources of pollution in the four main rivers in the region. Analysis of E.coli samples (using PCR discrimination to determine the source animal species) showed wildfowl sources being a key input</td>
<td>We support the intent of the standards but suggest improved controls on / reduced protection of wildfowl population numbers will be necessary to improve E.coli concentrations in key swimming spots throughout Southland. This may be achieved by extending the sports-bird shooting season or having no seasonal constraints in</td>
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<td>across most sample sites and catchments throughout all of Southland, and showed these as the dominant source of faecal contamination under base flow conditions – which is when most swimming would occur.</td>
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<td>Notwithstanding improved controls to limit E.coli losses from the agricultural sector, it is apparent elevated E.coli levels will persist by virtue of ducks and geese and the targets will remain unachievable.</td>
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<td><strong>SECTION 5: RAISE THE BAR ON ECOSYSTEM HEALTH</strong></td>
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<td>16</td>
<td>Reduce N loss in catchments with high nitrate/nitrogen levels through interim measures until all regions have operative freshwater management plans (Freshwater NES and/or farm plan)</td>
<td>Support in Part</td>
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<td>We seek Southland region be exempt from the interim proposals as Environment Southland has committed to a Plan Change that will address N losses. That Plan Change is half-way completed (Topic A being the objectives and most policies has recently finished with Topic B comprising the remaining policies and rules will commence in early 2020) the Environment Court process with significant investment by Environment Southland and interested stakeholders.</td>
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<td>Three options are proposed for rapid reduction of excessive nutrient leaching. We support the view of</td>
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<td>We support that an exemption from the interim proposals remains for those regions/catchments who have rules or proposed rules in place to reduce N leaching through an allocation regime, or GMP-based caps.</td>
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<td>Crucially, we seek Southland region be exempt from the interim proposals as Environment Southland has committed to a Plan Change that will address N losses.</td>
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<td>the national Federated Farmers submission that Option 3 is preferable by requiring farmers to show in areas not subject to any exclusions, via audited FEP's, how they will reduce N leaching. (practice-based). In conjunction with Southland's physiographic science framework which provides a tool on how to mitigate nutrient losses relative to risk and migration pathways specific to the soil and land characteristics, this will allow specific mitigations to be implemented that will have a science informed basis to improve water quality.</td>
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<td>17 Exclude stock from waterways (new s360 Regulations and farm plan)</td>
<td>Oppose in Part</td>
<td>We support proposed regulations only applying to cattle, deer and pigs. Sheep are not animals that typically immerse themselves in water and do not pose the same risks. Any impacts or risk associated with sheep around pugging or slumping of banks can be addressed through FW-FPs as in many cases the compaction caused by sheep on river banks has a positive effect on mitigating bank erosion. We support reasonable and realistic transitioning timeframes. However, we consider the 5m average setback to be arbitrary and goes beyond what will be needed in many cases.</td>
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<td>We support sheep not being included within proposals. We support stock exclusion not specifying the need for permanent fencing. With temporary fences, virtual fencing, smart collars and any new innovative techniques being provided for. We oppose a generic requirement to exclude stock from wetlands on non-low-slope areas. In some cases, light grazing may be beneficial for environmental and biodiversity outcomes, particularly in dry times of the year and on higher slopes and alpine areas. We consider there is need for regional variation through the regional planning process, considering local issues, risks and solutions.</td>
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<td>As proposed, the stock exclusion requirements don’t account for where fencing would lead to flooding risks; or where it is completely impractical, or where current planted setback better meets objectives.</td>
<td>We consider exemptions must be provided for in areas where exclusion is not feasible, such as flood-prone areas where fences would wash away, where multiple waterways are in close proximity and where no stock water reticulation is practicable (such as high frost zones).</td>
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<td>Further, as drafted, the proposals capture drains over 1m wide that are considered modified watercourses. This is a significant concern to Southland farmers.</td>
<td>We consider exemptions must apply to the likes of Southland or the West Coast where rainfall events can drastically alter the course and size of a river. Regional variation in such circumstances must be provided for.</td>
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<td>We strongly oppose the requirement to move fences less than 2m setback, or 1m at minimum out to 5m by 2025; or otherwise move them by 2035 as this comes at significant time &amp; cost.</td>
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<td>18</td>
<td>Apply standards for intensive winter grazing, feedlots and stock holding areas (Freshwater NES or industry standards)</td>
<td>We consider clear, defined set of requirements are best managed through FW-FPs, and that regulation in this area needs to be developed on a regional basis.</td>
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<td>Winter grazing is an important part of pastoral farming in Southland. It provides animals with feed when pasture is in low-growth and is crucial for many other regions of New Zealand. We have real concerns with the details of some of proposals in this area and consider these cannot work in practice in the blanket-rule way proposed.</td>
<td>We seek an exemption for Southland from the provisions in the NES given that the Southland Water &amp; Land Plan addresses the risks of intensive winter grazing in a regionally nuanced manner.</td>
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<td>We consider there are real risks of perverse outcomes and requirements for consent impacting those who are currently undertaking exemplary practices.</td>
<td>We consider there is a need to provide clarity on whether calf sheds, wintering shed yards and wintering barns are to be included within definitions for stock holding areas or feedlots, as each seems to trigger the definition thresholds.</td>
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<td>The 10 or 15 degree slope restriction will capture a lot of existing winter grazing. Much of this is already done with good management practices employed, as most of these farmers are aware of the challenges</td>
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<td>and risks posed by this practice. In many cases these properties are not in close proximity to waterways. Further, some of the land that will be newly subject to consenting regime is actually on physiographic zones that show the least risk to waterways from this practice. A potentially perverse outcome is that more winter grazing is driven onto low lying land, which is closer to waterways, and has higher risk of nitrate leaching which is especially concerning in free-draining soils and can be better addressed under the Environment Southland Land &amp; Water Plan rules in conjunction with the physiographic tools. Stock have to be fed through the winter, and intensive cropping is the only way to ensure adequate feed for them while minimising pasture damage. The Southland Water and Land Plan is addressing winter grazing through its provisions. These provisions are under appeal and will soon go through a mediation process (as Topic B of the ES Land and Water Plan mediation commences in early 2020) which will in all likelihood be able to address the practicality aspects which are not quite right in the ‘decisions’ version of the plan, to achieve a position which is practical, workable and sustainable. This regionally nuanced approach is essential for intensive winter grazing. We consider there are potential risks for wintering sheds, shearing shed yards, calf rearing sheds and lamb rearing sheds to get captured in the definitions for feedlots or stock-holding areas, and that these</td>
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<td>haven’t been well thought out. These provisions would then require such farm activities to satisfy technical requirements and standards, such as a requirement to line sheds, which would have disproportionate financial cost for minimal environmental risk, as well as risking animal welfare. It also disregards areas with heavy clay, where no leakage is likely. Farmers have six months to comply with new winter grazing standards after they come into force mid 2020 – this includes having a farm plan in place before rules kick in 1 January 2021, leaving uncertainty if this is not doable by time crops need to be planted.</td>
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PROPOSED NATIONAL ENVIRONMENTAL STANDARDS FOR FRESHWATER

PART 3 – FARMING

25 Definitions

<p>| <strong>stockholding area</strong> | Support in part | As proposed, a stockholding area means a permanent or semi-permanent area, covered or uncovered, that is constructed to hold livestock at a stocking density that precludes the maintenance of pasture or vegetative groundcover. It is stated to include feedpads, winter pads, standoff pads, and loafing | Amend to provide clarity: Stockholding area means a permanent or semi-permanent area, covered or uncovered, that is constructed to hold livestock at a stocking density that precludes the maintenance of pasture or vegetative groundcover, and: |
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<th>27 Feedlots</th>
<th>Support in part</th>
<th>Feedlots are proposed to be discretionary activities but come with specified conditions such as minimum permeability standards, FW-FPs, and setback from waterways etc. We consider there are real risks that as proposed the provision may inadvertently capture wintering sheds, calf sheds or lamb sheds. These must be specifically excluded. As drafted the matters of discretion are not appropriate planning discretionary matters. They are instead specific controls. It is more appropriate that they are therefore aspects of a controlled activity. There should also be specific clarity that these consent applications will not be notified. There is no benefit in having the general public submitting on such matters. It simply adds unnecessary cost and delays. A clear exemption needs to be provided for wintering sheds and calf or lamb sheds from Feedlot provisions. Amend as following: 27(1) In this clause, feedlot means a stockholding area in which livestock: (a) Are confined for more than 80 days in a 6-month period; and (b) Are completely hand-fed or mechanically fed; (c) Except that wintering sheds and calf or lamb-raising sheds are specifically excluded from this definition. Given 27(3) are not matters of discretion, but rather matters of control, this should more appropriately be drafted as a controlled activity. Add 27(5) “any application for a resource consent for the purposes of this clause will not be publicly or limited notified.”</th>
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<td>28 Sacrifice Paddocks</td>
<td>Oppose</td>
<td>Sacrifice paddocks are defined as paddocks used temporarily to hold stock in such a way that the pasture is likely to be severely damaged and will require pasture renovation. It is only a permitted activity where they are greater than 50 m away from waterbodies, water abstraction bores, drainage These matters are not appropriately addressed on a national broad-brush scale, nor confined to a consent process which will not adequately respond to an emergency or unplanned situation.</td>
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ditches, and coastal marine areas; and don’t include any critical source area. FW-FPs are key requirements of these consent conditions. It is otherwise a discretionary activity.

If consent requirements remain, there should also be specific clarity that any such consent applications will not be notified. There is no benefit in having the general public submitting on such matters. It simply adds unnecessary cost and delays.

In our view the effects of sacrifice paddocks, intensive winter grazing and other stock holding practices are much more appropriately addressed through the FW-FP. This would allow for a farm by farm assessment of risks and associated controls rather than requiring potentially numerous consents. Through the FW-FP, these activities could be managed with a much greater degree of efficiency and effectiveness for farmers and Councils.

Further, sacrifice paddocks are often an emergency measure for coping with unforeseen events such as feed problems requiring stock to be removed from crop (such as the recent HT swedes issue), unexpected numbers of stock being forced to remain on farm (such as during the M.bovis response), or stock returning home early from a winter grazing contract for any reason. These are not planned events, but are all valid reasons which occur and require the use of sacrifice paddock(s). Seeking consent in an emergency situation is not appropriate as the timeframes involved are not workable.

| 30 Intensive winter grazing | Support in part | Federated Farmers preference is for Option 2 from the Discussion Document – that being an approach being taken where the industry sets expected standards. | Federated Farmers supports Option 2 within the Discussion Document – that being that an approach is taken where industry-set standards are used, with a focus on farm and Council assessment. |
(1) Intensive winter grazing on a farm is a permitted activity if it complies with the following conditions:

- a) the grazing does not take place on land with a slope equal to or greater than 10 [15] degrees;
- b) the grazing does not take place over more than 30 ha [50 ha] or 5% [10%] (whichever is greater) cumulatively or in one contiguous area of the farm;
- c) any grazing on sloping land takes place progressively downhill from the top of the slope to the bottom of the slope;
- d) stock is not grazed in any critical source area;
- e) a vegetated strip of at least 5 m [20 m] that does not include any annual forage crop species is maintained between the grazed area and any water body or

standards, with resource consent only being required when these expectations are not going to be met.

Where a restricted discretionary consent is required we consider areas of discretion should be amended to address the below concerns (in relation to Option 1 proposals)

From our October 2019 member survey, which gathered over 1,000 responses, in the main winter cropping regions of Canterbury, Otago and Southland, 61% of respondents indicated they use winter cropping in their farm system. 18% of these would be over a 100Ha threshold, while across the rest of the country about 6% of those that use winter cropping would be over the 100Ha threshold. This shows that sufficient regional variation is required in this area.

- a) **Grazing slope of less than or equal to 10 [15] degrees**
  Slope restriction to 10 or 15 degrees will capture a significant amount of area currently used for intensive winter grazing (IWG). Southland Federated Farmers seek a 25degree slope limit for IWG on the basis that risk factors will be managed via other practices, particularly management of critical source areas & waterway buffers.

  Adopting a 25degree threshold for IWG will provide a consenting efficiency issue as lower slope limits will capture many farms as needing consent for little or no environmental gain, particularly given the significant industry focus on improving farm practices in this area. During the recent Southland Water and Land Plan process, the Hearing Commissioners determined that 20degrees was most appropriate when accounting for the regions topography. Whilst Southland farmers would prefer a 25degree threshold,

- **restricted discretionary** resource consent only being required where practices fall outside industry standards.

  1. This could include methods like the use of a Winter Grazing Plan. This should include a contingency plan for managing stock and runoff during adverse events. The WGP could be merged into a FW-FP for practicality purposes.

  2. Federated Farmers notes the RIS comment that the regulatory impact assessment for this proposal has not met requirements. We reiterate those concerns.

  3. Any requirements for consent must specify that: "any application for a resource consent for the purposes of this clause will not be publicly or limited notified."

Specific comments on the Option 1 criteria are as follows and these concerns should be addressed if these below matters are used as considerations under consent criteria where outside GMP:

  4. **Slope**
     - a. A slope degree threshold is set at 25degrees; or otherwise sufficient provision is made for necessary regional variation through local planning processes.
     - b. Government departments develop a universal LIDAR dataset to ensure consistency and efficiency

  5. **Area**
| **drainage ditch, and all stock are excluded from this strip during the grazing;** | they recognise 20 degrees may be a suitable balance. If necessary, the proposed values could be refined to accommodate different thresholds contingent on stock classes. Federated Farmers recognises the complexity in determining how slope is measured. A clearly defined method will need to be established and adopted into the NES; it will need to address the length between measurement points and specify how natural variation for depressions, swales and gullies will be addressed. This will ensure landowners, and Council officers, are able to understand and enforce requirements. We consider the determination of slope for farms and regions would be best calculated using LIDAR mapping. This approach would provide a mean slope, and it could account for the variability in terrain over a paddock. To ensure certainty and cost efficiency to all stakeholders (landowners, Councils and ratepayers) LIDAR measurement of slope should be carried out by Government ministries where a universal dataset is made available to stakeholders.  

**a)** Area  
Federated Farmers understands the need to adopt a trigger point for Council to direct IWG into a consenting regime, however we consider there will be consent inefficiency with the area options proposed.  

There doesn’t appear to be any real scientific basis for the area proposals offered, and the percentages appear arbitrary. While we acknowledge the need for certainty of scale, we consider these nuanced discussions as to what area limit works for a particular region, needs to be determined at a local planning level. | a. That the area threshold needs to set at a regional level to ensure limits are appropriate for that region.  
b. That dairy support blocks solely used for IWG are excluded within this provision (noting the remaining controls will still apply and manage sediment and nutrient losses).  
c. Further definition of key phrases be adopted into the NES. |
| **f) the grazed paddock is re-sown within 1 month, or as soon as practicable, after the end of the grazing;** |  |
| **g) pugging to a depth of more than an average of 20 cm [10 cm] does not occur over more than 50% of the paddock.** |  |
| **30 Intensive winter**  
**Restricted discretionary activity** |  |
| **30 Intensive winter**  
**Information note**  
Intensive winter grazing in certain areas that is not a permitted activity or a restricted discretionary activity may be a discretionary activity – see clause 33. |  |
| **6. Top-down grazing**  
a. Grazing practices should be specific to the farm and be set out in the FW-FP rather than the NES. |  |
| **7. Critical Source Areas**  
a. That CSA’s remain available for grazing, subject to appropriate vegetation setbacks at the downslope extent of the paddock/s.  
b. That CSA’s are grazed last on each paddock and only during dry periods.  
c. That mole & tile drains are not considered a CSA, or alternatively are subject to being grazed last and only in dry periods like any other CSA. |  |
| **8. Waterway setback distance**  
a. That a 3m buffer strip remains ungrazed,  
b. With respect to CSA’s a buffer strip at the downslope extent of each CSA is retained relative to slope i.e on slopes less than 15 degrees the vegetated buffer strip is no less than 10m wide is required |  |
| **9. Resowing** |  |
An unintended consequence of limiting area for cropping drives farmers to grow more intensive crops and/or add more supplement. Better environmental outcomes can be achieved by reduced intensity over a wider area. Decreasing the area available for farmers to operate as a permitted activity is also a consenting efficiency issue where many farms could be captured as needing consent – for little or no environmental gain but a greater demand on Council resources. As the effects of IWG are managed by a suite of controls rather than the area or percentage threshold in isolation, we support a less restrictive regime relying on other controls to also drive improvements.

The proposed thresholds will disproportionately impact those farms that solely provide dairy support for IWG. Farms or block of land may be underutilised during other parts of the year with the sole purpose of grazing (i.e. stock are transported from Southland into Otago over winter). These properties may have a lower N loss overall, but will be directed into a consenting regime under these proposed thresholds.

10. Pugging
   a. That pugging controls be removed from the provisions,
   b. Subjective assessment of pugging should be used as a guideline in determining whether a wet weather grazing contingency should be applied.

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<td>a.</td>
<td>That pugging controls be removed from the provisions,</td>
</tr>
<tr>
<td>b.</td>
<td>Subjective assessment of pugging should be used as a guideline in determining whether a wet weather grazing contingency should be applied.</td>
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</table>

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<thead>
<tr>
<th>b) Grazing Top-Down</th>
<th>Whilst grazing from the top of slope to the bottom is appropriate in many circumstances, it is not always best. Strategic directional grazing as per industry GMP is preferable.</th>
</tr>
</thead>
</table>

Federated Farmers considers it should not be a mandatory condition as it can contradict animal welfare objectives and is not always the best option in all circumstances for managing nutrient losses. Top down grazing as a preference can form part of the FW-FP, and will continue to be recommended as part of industry GMPs.
Top to bottom grazing often does not work as many paddocks do not have a uniform up and down slope. On lumpy ground, grazing across the contour in conjunction with a buffer strip at the bottom which is not grazed until the end creates the same effect and is much more workable.

c) **Critical Source Areas (CSAs)**
Federated Farmers supports controls applied to the grazing (or exclusion of grazing) of CSAs, and note these are already captured by GMP. We consider that some CSA's may be appropriate to be grazed, but only as the ‘last bite’ of the paddock and only during dry periods. This is mainly due to the wide definition of CSA – leading to practical implementation issues.

We consider CSA’s need to be clearly mapped as part of FW-FPs so there is no room for different interpretations during auditing/compliance visits providing certainty to landowners and Council officers.

The definition of CSA in the document is also problematic. Whilst a gully, swale or depression can concentrate and direct runoff to water, many do not. Some captured by the definition are areas that only accumulate water in heavy downpours. These can be any part of the paddock that features a depression or even flatter parts at the bottom of slopes where the proposed regime will limit cultivation or grazing. Federated Farmers considers a buffer setback on those CSA’s that directly link to waterbodies should remain ungrazed, as these areas provide the greatest opportunity for treatment and improvement to water quality.

Farms that rely on mole and tile drains for dewatering land will be most impacted by the proposed
regulations. Many farms in Otago and Southland for example are dominated by land served by mole and tile drains and have no alternative grazing areas. Federated Farmers seeks a method be adopted where CSA’s, including those with mole and tile drains can be grazed by subject to controls to manage nutrient losses.

d) Setback from water
This limb sets out a separation distances where vegetation is not grazed relative to a waterway. The draft document offers two options - 5m or 20m. It is unclear where the 5m is measured from and whether setbacks require permanent fencing or other exclusion.

Southland Federated Farmers supports neither option and prefers a 3m vegetated buffer strip as we consider no greater distances have been justified on science and evidence to date. We consider a blanket arbitrary 5m or 20m strip would have significant implications for loss of grazing land, with no guarantee of greater environmental benefits. It will also exacerbate issues of weed and pest control. Southland has an existing rule requiring a 3m buffer strip, which many have fenced in line with, and provides ample buffer in most circumstances.

We do however consider a greater buffer strip may be appropriate for
- IWG on land with increased slopes i.e over 15 or 20 degrees.
- at the downslope extent of a CSA given the heightened risk of sediment and nutrient losses off-farm. This approach links into our suggested relief for managing CSA’s above and should be managed through FW-FP.
Strategic grazing near waterways and careful management of CSAs can reduce losses of sediment and phosphorus from the paddock by 80-90%.

e) Resowing
Southland Federated Farmers considers re-sowing of paddocks within 1 month of grazing to be consistent with GMP as a means to control sediment and phosphorus losses, but that this will not always be achievable.

Regions comprising heavy soils will be most affected by this provision. To illustrate in Southland the conditions are usually still too wet during this period - sowing will cause damage to the soil structure and the organisms within, results in tractors getting stuck, mud being dragged onto roads, and germination failing due to the low temperatures. It will also increase the risk of sediment getting into waterways.

Furthermore the requirement provides an additional burden at a time when many farmers are calving and/or lambing and unable to undertake the work at that time. In addition, many farmers engage contractors to do this work, and that means that the timing is often out of the control of the farmer.

Farmers have no interest in extending the timeframe associated with resowing as they understand the loss of topsoil on bare land impacts productivity and farm profitability. Farmers carry out resowing as soon as possible and any rule is an unnecessary encumbrance.

We consider this proposal would be challenging for councils to monitor and enforce and be deleted from the reform package.
f) **Pugging**

Federated Farmers considers pugging per se is unlikely to result in adverse environmental (or animal welfare) impacts if the other parts of this standard are met, particularly where a FW-FP is in place.

However, we consider a requirement to have a WGP, including contingency in case of adverse weather events would help set out a planned management response to adverse weather events and the increased issue of significant pugging.

Farmer feedback has highlighted that it is unclear what method can be applied to measure pugging depth across 50% of the paddock. This creates uncertainty to the landowner and Council Officers in terms of compliance or surety that the farm is compliant. Whilst it is very difficult to measure/monitor/manage pugging across a paddock accurately, it provides a potentially useful guideline in terms of implementing wet weather contingency plans in the WGP.

We consider compliance will be difficult, if not unenforceable.

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**PART 3 – FARMING**

**Subpart 2: Intensification**

| **33 Intensive winter grazing within certain areas** | This clause applies from 1 January 2021 and provides for intensive winter grazing to be a discretionary activity if the total area within a farm in annual forage crop exceeds the highest total area in annual forage crop in any farm year between 2013/14 and 2018/19. Consent conditions are to include the need for a certified FW-FP addressing specific matters; and proof that the N, P, sediment or microbial pathogen. | This broad-brush rule is inefficient, ineffective and is not effects-based. There must be provision for low-emitters to have an opportunity to change or for practices to change to allow for lower yielding crops over larger areas. Any rule to prevent further intensification must be limited as follows: |
discharges of the farm will not exceed the average discharges of those contaminants from the farm during the farm year 2017/2018.

This is not an effects-based rule. Of particular concern it hurts those with low input or low impact systems the most. It takes away the flexibility that farmers have always relied upon to react to economic, regulatory, market or environmental changes. It is completely unreasonable to apply this to all catchments across NZ.

The rule also prevents farmers from adopting innovative ways to improve the environmental outcomes of winter grazing. Reducing crop yield and therefore stock density, or leaving buffer strips within crops to provide additional sediment capture are removed as options for a farmer with this rule that prevents them from cropping at a lower yield over a larger area.

From a practicality perspective, Southland Federated Farmers considers it is not be possible to have a certified farm plan in place, prior to the crops for the winter of 2021 being planted (spring 2020 planting), and therefore the provision needs re-considered.

This provision should not apply to areas where there are no issues with contaminants.

- It must only apply to catchments of concern (identified as high risk)
- It must only apply to proposed increases to contaminants of concern in a catchment. For instance, if there are no Nitrogen issues in a catchment, increases of N at an individual farm-scale beyond previous years should not be of concern.
- Any rules in this area must be clearly targeted and prioritised, they must be focussed on a catchment's contaminant of concern (if there is one).
- Any requirements for consent must specify that: “any application for a resource consent for the purposes of this clause will not be publicly or limited notified.”

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<thead>
<tr>
<th>35 High-risk land use changes</th>
<th>Oppose</th>
<th>This applies to any farm changing land use from arable, sheep, deer, or beef farming to dairy support OR the above or dairy support to dairy farming OR any forestry to any form of pastoral farming</th>
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<td>It is unclear whether this provision applies to a farmers existing farm system or if the change in use</td>
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<tr>
<td></td>
<td></td>
<td>- It is unclear whether this provision applies to a farmers existing farm system or if the change in use</td>
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</table>
only take effect if an existing landowner buys or leases additional land (than had a lower tier activity on it previously) to complement their existing farm system.

It is only a permitted activity if the new proposed use is less than 10 hectares.

It is a discretionary activity if new use is over 10ha. The following conditions must be included – must be a certified FW-FP including specified actions, and proof that the N, P, sediment or microbial pathogen discharges of the farm will not exceed the average discharges of those contaminants from the farm during the farm year 2017/2018.

This is not an effects-based rule. Of particular concern it hurts those with low input or low impact systems the most. It takes away the flexibility that farmers have always relied upon to react to economic, regulatory, market or environmental changes. It is completely unreasonable to apply this to all catchments across NZ.

This provision should not apply to areas where there are no issues with contaminants. There are difficulties in how to measure and prove what these contaminants were or to show what future rates are likely to be. There isn’t the ability at farm scale to model sediment or e-coli.

- It must only apply to proposed increases to contaminants of concern in a catchment. For instance, if there are no Nitrogen issues in a catchment, increases of N at an individual farm-scale beyond previous years should not be of concern.
- Any rules in this area must be clearly targeted and prioritised, they must be focussed on a catchment’s contaminant of concern (if there is one)

Any requirements for consent must specify that: “any application for a resource consent for the purposes of this clause will not be publicly or limited notified.”

ADDITIONAL PROPOSAL FOR THE MANAGEMENT OF NITROGEN IN SCHEDULE 1 CATCHMENTS
(replacing Clauses 38(1)(j) and 38(5) if adopted

Subpart 4: Nitrogen Cap

44 Controlled activity

Oppose in part

Southland Federated Farmers have concerns with the reliance in the way proposed on OVERSEER under this option. This will lead to high additional individual costs without the certainty of benefit for receiving

We have concerns with this option’s reliance on OVERSEER for reasons discussed throughout this submission.
Discretionary activity

Requirement to provide baseline nitrogen loss figure

Requirement to provide Overseer output files

waters. We do not consider this will pass the Section 32 tests for relevance, certainty, clarity, necessity, effectiveness and efficiency.

OVERSEER does not enable a farmer to see any realistic connection between their day to day farm management activities and resulting long term environmental outcomes.

It is important to remember that some farms simply cannot be accurately modelled in Overseer (particularly mixed farm types, sheep, beef, different types of arable crops, dairy grazing). As proposed, these rules don’t offer any alternative. It is our view that if Overseer cannot effectively model a farm operation, there needs to an alternative to OVERSEER as an option. This may mean excluding some mixed farms as they were too complex to model as was required during the Southland Economic Study project.

Our members have raised considerable concerns with the need to provide an Overseer output file to regional council, given it contains all aspects of a farm productive business. Privacy of data is critical and must be respected.

We also caution that Overseer version control is problematic when using it in regulation.

The Parliamentary Commissioner for the Environment has highlighted numerous concerns with the use of OVERSEER as a regulatory tool. Its use to set limits is outside the scope of its purpose, function and capability at this stage. The PCE report identified issues of:

- Uncertainty in results
- Unreliability in modelling

We consider an alternative to use of OVERSEER must be provided.
• Lack of transparency
• Reliance on unknown and unknowable inputs
• Lack of calibration in high rainfall areas
• Failure to recognise critical source area versus whole of farm leakage
• Lack of connection between modelled N loss and N transportation to a waterway
• That calibrated areas have losses of between a +/- 30% error rate; outside calibrated areas this is at or over 50%.

By referencing OVERSEER within regulations, the government has ignored these important gaps and shortcomings. The decision to require its immediate use in a regulatory context now, is despite the acknowledgement in the 2019 Budget that a considerable investment was needed to improve OVERSEER in the future.

DRAFT STOCK EXCLUSION SECTION 360 REGULATIONS

Information Notes

1. These proposals will not apply to rivers less than one metre wide.

Support in part

We support this position in part. However, as drafted, proposals potentially capture drains over 1m wide that are modified watercourses. This needs clarification through a specific exclusion.

There is also clarity needed as to how a ‘1m wide’ river will be determined, given variation in waterways along their length.

1. We support smaller waterways (under 1m wide) being excluded from the Regulation requirements.
   • Smaller waterways are more effectively and appropriately addressed within FW-FPs – where risks, opportunities and solutions can be addressed as part of farm scale management considering a range of additional factors – including biodiversity, water and climate change.
2. We seek a specific exemption from the Regulations for “drains that are modified watercourses”.

3. Clarity is needed as to how a river wider than 1m will be defined, given the natural variance in width that can occur across a waterway’s length.

<table>
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<tr>
<th>4. We are seeking feedback on appropriate criteria for allowing exemptions from the regulations,</th>
<th>Support</th>
<th>A key issue with the use of Section 360 Regulations is that there simply is too much regional variation to safely land a ‘one size fits all’ response. If it is determined that regulations are the way to go, a number of specific exemptions will be necessary. For instance, fences present a hazard in some environments such as alluvial fans or plains that are prone to high rain events or snow-melt. Mobilised vegetation washed from forest blocks during high rain events becomes captured on fences where they are either damaged (and is costly give the return interval of the repairs) or are lost downstream. This presents increased flood risk, and a health and safety risk to people and recreationalists, or the marine environment where wires and posts are lost to the sea. Highly dynamic riverbeds on plains change form after significant rain events. Depending on the frequency of those events, this is costly in terms of having to relocate the fences or the repair of them. There will be areas where fencing is completely impractical – for instance where there are lots of close together waterways or where access for equipment is impractical.</th>
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<tbody>
<tr>
<td>1. Stock Exclusion should not be determined in a broad-brush manner as it ignores regional variation. 2. A number of exemptions will be appropriate and necessary. For example: i. Where fences would create flood risk (debris issues) or if subsequently washed away pose risks to people or the environment. ii. Where riverbeds on plains move, requiring unrealistic needs to shift fences in response. iii. Where a region has adequately addressed risks in existing plan provisions and have sufficient regional variation that an exemption from the Minister is appropriate. iv. Where fencing is impractical – lots of close together waterways. v. Where a current planted setback adequately addresses risks and Regulation objectives.</td>
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necessary to fence is not feasible. This will be a common situation for instance in Otago and Southland in the rolling hill topography.

**General stock exclusion requirements**

| b) Where an existing fence does not comply with setback requirements, it shall be allowed to remain in its current positions until 2025, 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. | Oppose | We strongly oppose the requirement to move fences less than 2m setback, or 1m at minimum out to 5m by 2025. This will take away resources, time and money from other areas they may be greater needed.

Costs will be disproportionate to resulting benefit – with potential for environmental harm through uprooting fence structures, and damaging vegetation through the process.

Where current fences are ineffective at addressing critical source area losses, or are otherwise not sufficient, their movement should be planned and required as part of a FW-FP. | 1) Delete the requirement to move any fences before the end of their natural life span.
2) Where current fences are ineffective at addressing critical source area losses, or otherwise not sufficient, their movement should be planned and required as part of a FW-FP. |

| c) Landowners may seek an exemption from stock exclusion requirements, or an extension of the phase-in timeframes. | Support | Given concerns raised above, we consider exemptions and extensions will be essential. We support the ability for landowners to seek an exemption from stock exclusion requirements or an extension of the phase-in timeframes, but this must remain a matter between the landowner and Council. It should not be open to any further input.

Appropriate methods within a FW-FP can address the outcomes intended by this provision more effectively. | We support the ability for landowners to seek an exemption from stock exclusion requirements or an extension of the phase-in timeframes, but this must remain a matter between the landowner and Council. It should not be open to any further input. |

**Conclusion**
Southland Federated Farmers thanks the Ministry for the Environment for the opportunity to provide feedback on its Action for Healthy Waterways proposals. We look forward to ongoing dialogue about the proposals, and continuing to work constructively with the government on the best way forward.