The High Country Accord Trust

Response to the Crown's Discussion Documents:

Stock Exclusion Regulations and low slope map

Freshwater Farm Plan Regulations

Intensive Winter Grazing Regulations

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This document

This document responds to the Government's following discussion documents:

- Stock Exclusion Regulations: Proposed changes to the low slope map
- Freshwater farm plan regulations
- Managing intensive winter grazing

This document should be read alongside the Accord's earlier submission in 2019 on the discussion document for a national direction on essential freshwater.

Background to the Accord

The High Country Accord is a trust established in 2003 for the purposes of promoting and protecting the rights of holders of pastoral leases under the Crown Pastoral Land Act 1998 ('CPLA') and the Land Act 1948 ('LA'), *'with a view to ensuring the future economic, environmental and social sustainability of the South Island High Country.'*[1]

The Accord represents the interests of more than 150 pastoral lessees who are collectively responsible for the stewardship of 1.2 million hectares of land in the South Island High Country.

Summary of position – low slope map

The low slope map still captures many aspects of extensive farming systems within pastoral leases, contrary to Cabinet's intentions.

Without the resources to examine every lease against the low slope map, our best estimate is that up to 50% of leases remain caught by the map.

Pastoral leases have unique features which distinguish them from other farms:

- Pastoral leases were created as an instrument by which the Crown could continue to influence environmental outcomes in the South Island High Country
- Presently proposed changes to the Crown Pastoral Land Act will materially increase the level of control exerted by the Commissioner of Crown Lands over farm activities on pastoral leases
- Pastoral leases invariably include stock limitation clauses which define the overall classes and number of stock which can be carried on the property, with many leases having particular limitations applying to defined areas of the property either within the lease or within the terms of exemptions granted by the Commissioner
- Those leases that remain after 20 years of tenure review are invariably 'extensive pastoral farming systems' as that term would be commonly understood

[1] Clause 4.1 of the High Country Accord Trust Deed dated 23 November 2003

- They are located in diverse, challenging environments characterised by significant altitudinal ranges from valley floors at 200m to mountain tops at 2,000m

While Cabinet did not intend to capture extensive farming operations within the low slope map, the map still captures such systems in many areas.

The 500m altitude threshold whilst substantially addressing the issue is not a complete solution.

The proposed low slope map accordingly still has major financial and practical management implications for pastoral leases, but without any compelling evidence of likely material environmental gains.

The Accord's position is therefore that the proposed map is inherently unreasonable.[2]

The Accord's view is that:

- The preferred approach to freshwater management in the High Country remains one which is evidence based and targeted to take account of property and catchment specific issues

- This is consistent with the stated objective that *'farm plans should be outcome driven, risk based, and farm specific.'* (p21 Freshwater farm plan regulations discussion document

- all pastoral leases should fall only into the freshwater farm regime and be specifically excluded from the low slope map

- The combination of freshwater farm plans and the role of the Commissioner of Crown Lands in the oversight of pastoral leases provides a framework for the appropriate management of freshwater quality in the High Country and achievement of the overall policy objectives.

Specific comments – low slope map

The Accord's original submission identified various adverse impacts of the original stock exclusion regulations to the High Country. These are set out in slightly modified form in Appendix 1.

The Accord welcomes the attempt to address the problems by changes to the low slope map.

However, despite the intention not to capture extensive farming systems typified by pastoral leases the low slope map still does so in many cases.

This is a result of the 500m altitude threshold, and the inevitable anomalies which result from the adoption of such an arbitrary measure on a national basis. It is self-evident that for a country running north to south the environmental conditions at the southern end of the range will be materially different from those at the north.

By way of example a review of pastoral leases within the following Southern lake catchments indicates that a material number of leases include land which will still be caught:

[2] In a legally reviewable sense

Lake	Lake Altitude	No. of Leases likely affected
Wakatipu	310m	8
Wanaka	292	5
Hawea	348	1
Te Anau	210	1

These were identified simply because the lakes provide convenient objective altitude reference points and lease boundaries are reasonably clear.

A high level review of other regions concluded that considerably more pastoral leases contain land falling both above and below 500m. Our best estimate is that up to 50% of the pastoral lease estate remains caught by the map.

We believe all pastoral leases within Southland will have land caught by the low slope map. Leases with land in the mid-altitudes of the large river catchments of the Waitaki, Rangitata, Rakaia, Waimakariri, Waiau, Awatere and Wairau are also likely affected.

In almost all cases the low slope land is likely to form only a small part of the pastoral lease. Often, but significantly not always, this low slope land is part of the more developed part of the farm operations.

While some of the relevant land caught by the map is likely to have developed land with water bodies which should appropriately be fenced, there is other land which is likely to contain mobile water bodies or undeveloped land which is not stocked at all, or if stocked then at very low levels for practical reasons, reflecting the inherent values of that land.

Including these parcels of land within the generic stock exclusion regulatory regime would impose significant cost but not deliver any material environmental benefit. At the same time many adverse outcomes can be anticipated as outlined in Appendix 1.

By way of example a parcel of land below 500m abutting a river with gravel beds and banks cannot be practically fenced because:

- It will generally be impractical to provide a reticulated trough system for stock water
- The fence will be vulnerable to flood damage on a regular basis
- Fencing will concentrate stock at an unfenced water source

Furthermore, we have identified some cases, where the map produces the perverse result of the property dropping into, and then out of, the low slope map as a river moves through the property. This will mean a regulatory requirement for some parts of the river to be fenced, but not others and with no coherent purpose of stock management.

Many of these areas have significant areas of indigenous shrublands which would require removal for fencing. This will conflict with many plans and also require consent under the Crown Pastoral Land Act.

It should also be noted that Regulation 18 requires stock on low slope land to be excluded from any natural wetland that is 0.05 hectares or more.

While many natural wetlands fall above 500m, many occur below 500m on the properties we have referred to. In a mobile riverbed, a shifting river typically leaves natural wetlands (as defined) behind, only to be reclaimed by the river on its next movement. In other cases, wetlands arise from springs sourced from surrounding subterranean flows which also fluctuate considerably over the course of a year. Others are fed by overland channels. Whatever their source they are typically numerous in a high country context. Fencing them all is impractical. A farm plan will provide the mechanism for identification of those which require fencing. Removing pastoral leases from the low slope map will fix this issue.

A final practical point is that both 'rivers' and 'wetlands' are defined to include 'intermittently' flowing water bodies or wet areas. Much of the High Country is located within areas of high rainfall or otherwise within areas which experience extreme weather events such that the application of the word 'intermittently' means there are a multitude of possible areas which would require fencing and further areas which will provide significant scope for dispute.

For all these reasons, and recognising that Cabinet did not intend to capture extensive farming systems, the better approach for pastoral leases is to address these circumstances through the farm plan mechanism – with the farm plan then specifying a fencing plan for those wetlands and rivers within a lease which are part of the developed land, or some other appropriate mitigation measure which is sensible and practical in the circumstances.

Only a short moment of reflection is required to recognise that the nature of a farming system in the High Country does not change at the point it drops below 500m. Altitude is just one factor. Soil type, slope, orientation, vegetation cover, susceptibility to flooding all have a role in the farm management system.

Sensibly, however, any environmental farm plan should align with the plan developed for the whole farm system not simply a part of it.

The preferred approach from the Accord's perspective would therefore be for the Regulations to provide that all pastoral leases be excluded from the low slope map.

Water bodies on pastoral leases would therefore then be subject to the two protective measures of:

- The farm plan regime; and
- Oversight from the Commissioner of Crown Lands in his management of the pastoral lease farm activities

An alternative approach would be to attempt a definition of an *'extensive farm system'* such that a farm falling within this definition is not regulated by the low slope map but by the farm plan mechanism. Such a definition would then apply more generally to freehold as well as leasehold properties. While stocking rates may form the basis of the definition, another approach would be to look at the proportion of land caught by the low slope map to the overall area of a property.

An additional mechanism may be to consider extending the exclusion from depleted grasslands and tall tussocks to include grey shrubland and other areas of significant indigenous vegetation.

The Accord would be happy to discuss this issue further with officials and to host officials to explain this submission by reference to actual examples.

Freshwater plan regulations

As noted in its original submission, the Accord accepts that over time Farm Environment Plans will become a feature of farm management. Many pastoral leases have already invested considerable sums in developing farm plans for management purposes and to meet the requirements of industry assurance programmes. Farm plans are also likely to be important tools under the proposed changes to the Crown Pastoral Land Act.

The Accord still favours an approach which sees Plans evolve within a wider catchment or sub-catchment context which take account of neighbouring plans. It reflects thinking that a 'bottom up' approach of collaboration will work better than a 'top down' approach.

The Accord remains concerned that the present expectations for the adoption of farm plans are unrealistic. There needs to be a general 'reality check' applied with good consultation amongst the farming community, so that regulatory requirements align with industry assurance programmes and plans avoid unnecessary complexity and cost. If this is not achieved then plans will not secure the 'buy in' necessary to make them effective tools in achieving the desired outcomes.

Having said that the Accord responds to the Discussion document with the following specific comments:

- **Question 10:** Yes – Option 1 providing for flexibility risk/impact assessment is preferred

- **Questions 16 & 17:** While legislation requires certification of farm plans, the Accord's view is that this was unnecessary in light of the audit requirement. It is already clear that consultancy businesses see the revenue opportunities arising from the proposed framework and the farming community can expect substantial costs. In many cases these will add to farm plan costs already incurred with consultants who will not be certified (for various reasons).

- **Questions 18-21:** The Accord agrees that certifiers will need to 'walk the farm' to gain some practical insight to the farm system if their input is to have value. The Accord is concerned, however, that this is not regulated as there is the potential for considerable costs to be imposed if certifiers are required to walk the farm and this is interpreted as a requirement to visit every square metre of 35,000 hectares.

  The Accord also agrees that certifiers should be able to access other expert advice as required.

  The Accord believes that the audit requirement means that certifiers of farm plans do not need to be restricted from ongoing involvement in the process as and when farm plans are reviewed. An ongoing involvement is desirable (and also likely necessary given the likely available resources being limited). Comparing the corporate world provides helpful insight. Listed companies are required to rotate auditors but are not required to rotate their financial advisers and accountants.

- **Questions 24 & 25:** The Accord favours a five year review of plans and re-certification process. Another approach would be to commence with a three year review and then allow a move to a five year review earned on satisfactory audit

- **Questions 36 & 37:** The Accord believes that 18 months is insufficient time for the first audit to be completed. It is unlikely that there will be sufficient audit resource for this work to be completed nationally. Further the Accord believes that an additional extension of re-audit to five yearly intervals could be available where the three year audit is passed without compliance issues. The discretion of regional councils to require a re-audit earlier could be triggered by any intervening non-compliance

- **Questions 51 & 52:** The Accord is adamant that farm specific information within farm plans be kept confidential. It is critical to a constructive relationship between regional councils and farmers that information can be shared freely without fear of disclosure.

Intensive winter grazing regulations

The Accord is generally supportive of the proposed changes.

Releasing submissions

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Appendix 1 – impact of the Stock Exclusion regulations in a high country context

- Most lessees, whilst carrying a predominance of sheep will still be caught by the Stock Exclusion Regulations because they also run cattle across much of the same land as the sheep, and it is impractical to adopt another management system.
- The general restrictions on water crossings for low slope land are impractical because of the numerous streams present on most pastoral leases, and the absence of reticulated trough water. These issues necessitate the ongoing access to streams by cattle as well as sheep for stock water.
- Virtual fencing in the High Country is simply impractical with current technology and lack of electricity network infrastructure.
- The consequence of the proposed regulations will be that potentially significant areas of pastoral lease land will require physical permanent fencing of extensive river margins and wetlands.
- There is, however, no generally applicable evidence that current stock carrying practices on pastoral leases in the South Island High Country are resulting in measurably adverse water quality outcomes which would be mitigated by fencing.
- In many cases the alluvial nature of the soils in High Country valleys means that riparian setbacks will have little measurable impact on levels of N leaching into the immediately adjacent waterway.
- In many cases the gravel nature of the stream beds and banks in the High Country are such that stock do little damage to beds, banks, and bankside vegetation.
- On the other hand, the adverse consequences of regulated stock crossings and fencing rivers and wetlands in this environment are many:
    - A material, and in some cases unaffordable, fencing cost estimated to be not less than $15,000 per kilometer;
    - The cost will be exacerbated by the High Country often being the subject of adverse weather events which result in fence losses on a regular basis;
    - Material areas of productive land will be removed from production for little measurable environmental gain;
    - Once fenced these areas will not be managed and the weed control from light grazing will cease. The cost of weed management will quickly become prohibitive;
    - The creation of large areas of land within the riparian exclusion zones will allow a proliferation of pest plants such as pines, willows, gorse, broom, buddleia and blackberry and more vigorous non-pest species (such as some exotic grasses).
    - These overgrown riparian exclusion zones also tend to provide excellent habitat for rodents due to seeding by uncontrolled species. In turn this supports mustelid populations which at various times will turn their attention to indigenous species. In the South Island High Country various stream bed birds will be particularly at risk;

- Once fenced and the riparian zone has been overgrown, there will be a consequential exclusion of considerable areas of land from any effective recreational use (freshwater anglers in particular);

- Unresearched and unintended consequences for the fauna and flora of many aquatic stream and wetland environments are likely. While shade may be perceived by some as desirable, in many environments this may not have been the natural state of the riparian zone and lead to changes in the aquatic environment;

- Fence lines in the High Country already impact the visual values of the landscape. Requiring more fence lines will exacerbate this visual impact;

- In and around wetlands and many High Country streams the effect of fences will be the creation of visually dissonant green ribbons of exotic weed species in environments typified by wide open spaces dominated by indigenous species;

- Over time there is a high likelihood that the application of these rules will come to be regretted in much the same way that well-meant public plantings of conifers in areas of the McKenzie Country are now recognised to have been seriously misconceived.

Riparian Exclusion Zone showing infestation by willow and other exotic species