

WORKSHOP ITEM:	SUBJECT MATTER: Plan options for making dryland farming a permitted activity
AUTHOR: Lisa Jenkins	DATE OF MEETING: 29 January 2018

Action required

The Zone Committee considers how the broad policy options identified for “fixing the 10% rule” can be refined to enable future discussion to focus on the mechanism for permitting dryland farming.

Key points

1. To constrain scope, the most simple mechanism for permitting dryland farming is to alter the definition of “change of land use” within the HWRRP and not change the policy or rule framework.
2. There are four options that are not generally supported and which can be set aside:
 - providing for some irrigation as a permitted activity;
 - not defining and limiting what is meant by “normal dryland farming”;
 - retaining the status quo; and
 - establishing a flexibility cap.
3. Winter grazing is generally understood to be the component of normal dryland farming that is most likely to result in increases of nutrient losses.
4. The option of using a winter grazing limit to identify the type of dryland farming being permitted appears to have general support and there are a number of mechanisms for achieving this.

Introduction

The Zone Committee has discussed, in broad terms, the options for making dryland farming a permitted activity. Over the past several months, these options have been discussed with stakeholders while more information has become progressively available.

The key messages that have emerged from these discussions are:

- Dryland farmers want as much flexibility as possible to do additional winter grazing but at the catchment scale it is unlikely that significant additional winter grazing would occur.
- There is a need for certainty that water quality will not degrade.

Options for fixing the 10% rule

In November 2017, a very brief issues and options paper was circulated to key stakeholders. The paper described the problem with the 10% rule and set out four possible solutions to that problem. Stakeholders were asked to provide feedback on their preferred option and let us know if they felt there were other options that should be considered.

Stakeholders did not provide written feedback. However, I have spoken to a number of parties and through discussions at Zone Committee meetings and with the science

stakeholder group, we are at a point where the broad options for making dryland farming a permitted activity can be narrowed and refined.

Scope

The Zone Committee has determined that in order to “fix the 10% rule”, a targeted plan change with limited scope is desirable. This approach will ensure the entire Hurunui Waiau Rivers Regional Plan is not opened up for relitigating and energy and resources are directed towards making dryland farming a permitted activity.

The National Policy Statement for Freshwater Management 2017 (NPSFM) requires that any proposed new provisions for making dryland farming a permitted activity must maintain water quality. Increases in nutrient losses that would result in water quality not being maintained, would need to be offset.

In order to maintain a targeted approach, it is important that the options considered do not require a total review of the farm scale nutrient management provisions. A full review of the farm scale nutrient management provisions would need to be conducted in accordance with the limit setting process prescribed by the NPSFM and would open up significant parts of the HWRRP to re-examination.

To constrain scope, the most simple mechanism for permitting dryland farming is to alter the definition of “change of land use” within the HWRRP and not change the policy or rule framework. While this is the ideal, we do remain open minded to the potential necessity of making targeted changes to the policy and rule framework where such changes better facilitate dryland farming as a permitted activity.

Options to be set aside

It is unlikely that permitted irrigation development could occur while maintaining water quality and maintaining a targeted approach to a Plan Change. While many stakeholders are generally supportive of the concept of providing for some irrigation development as a permitted activity, it is accepted that this would require significant review of the HWRRP farm scale nutrient management approach. Such a review is not well supported by stakeholders.

The option of progressing a permitted activity status without limiting or defining what is meant by dryland farming is somewhat supported by some stakeholders. However, this approach does not provide a mechanism to manage the additional nutrient loss risk associated with intensification of winter grazing. This will make building a credible case that there is no risk of water quality degradation significantly challenging.

Stakeholders have asked for further information on retaining the status quo. There are two scenarios that can be considered the “status quo”. The first scenario is that the advice note stays in place and enforcement of the “10% rule” provisions is not prioritised. While it is appropriate to prioritise implementation of plan provisions, the rules must be implemented eventually. The second scenario is that the advice note is updated or withdrawn and enforcement of the “10% rule” provisions is given the same priority as other plan provisions. Under this scenario, all dryland farmers would need to undertake an OVERSEER evaluation to establish an average loss rate (2012-2016) and make further assessments to confirm

nutrient losses have not increased by more than 10%. If nutrient losses have increased beyond 10%, resource consent would be required. Environment Canterbury does not consider there is sufficient capacity within the Council or industry to manage significant additional resource consents. In addition, resource consents would be costly (significant evaluation needed for non-complying activity status) and would be unlikely to result in environmental gains¹. Retaining the status quo is unlikely to be supported.

The option of using a numerical (kg/ha/year) loss limit has also been suggested – this option is referred to as a “flexibility cap”. For example, providing for any land use with a loss rate of less than (say) 15kg/ha/year as a permitted activity. The flexibility cap approach is used in the South Canterbury Coastal Streams and Selwyn Waihora Zones. The flexibility cap is costly to implement. The approach requires landowners to submit nutrient budgets to establish their permitted activity status. Environment Canterbury does not consider there is adequate capacity in industry² to service a plan option that significantly increases the number of nutrient budgets required in the Canterbury Region.

Plan Change 5 to the Land and Water Regional Plan was developed, in part, to reduce the complexity and cost of implementing permitted activity rules. Plan Change 5 developed a narrative approach to defining land use constraints. The narrative approach, using numerical limits for irrigation and winter feed, is simpler for landowners as there is no need to undertake a nutrient loss assessment to understand if your landuse is permitted or requires resource consent.

Because Environment Canterbury staff considered the flexibility cap option would be costly (on the basis of work that has gone on in relation to the Land and Water Regional Plan), we have not sought to undertake technical work to understand the potential impacts of this option and are not able to do so within the necessary timeframes that would achieve notification in 2018. For these reasons, this option is unlikely to be supported.

Options to refine or consider further: Provide for dryland farming as a permitted activity within defined limits

Winter grazing has been identified as the component of dryland farming systems most likely to result in significant increased nutrient loss. For this reason, it appears to be widely accepted that in order to define dryland farming for the purpose of permitting the landuse, the amount of winter grazing should be limited.

The option of using a winter grazing limit to identify the type of dryland farming being permitted appears to have general support. Within this option, there are various mechanisms that can be used within the HWRRP, for example:

- Use the narrative description of dryland farming currently used in the advice note to describe “change in land use”
- Include a winter grazing “per cent of property” limit in the definition of “change in landuse (e.g. 5% of the total property area)

¹ See Memo from regarding capacity to process additional consents

² See Memo from regarding capacity to process additional consents

- The “Environment Southland” approach³ of specifying:
 - The amount of winter grazing that can occur in specified areas (e.g. up to 20ha per property in the lower catchments, no more than 5ha in hill country):
 - Where winter grazing can occur within the landscape (for e.g. on slopes of 20 degrees or less, set-backs from waterbodies); and
 - Winter grazing practices (e.g. strip grazing from the top of the slope to the bottom).

Each of the mechanisms will have benefits and costs that will need to be evaluated. By focusing on these mechanisms as the options, it will be possible to use existing and “in progress” technical information to better understand the environmental, social, cultural and economic impacts of each option and inform a plan change proposal.

Next steps

Technical work will continue to focus on understanding the likely impacts of permitting dryland farming with a view to establishing appropriate limits on winter grazing and identifying the benefits and costs of the options set out above.

³ See attached example of the proposed Southland Regional Council provisions

Attachment 1: Memo regarding capacity to process additional consents

Memo

Date	21 December 2017
To	Lisa Jenkins – Principal Planner
CC	Andrew Parrish – Regional Planning Manager; Ned Norton – Technical lead
From	Philip Burge – Principal Consents Advisor

Capacity for the Canterbury Regional Council and industry to efficiently process consents that would be required from dryland farmers under the “10% rule”

Context

Hurunui Waiau Rivers Regional Plan

1. The Rules in section 3.3 of the Hurunui Waiau Rivers Regional Plan (HWRRP) are intended to manage the cumulative effects of landuse on water quality in the Hurunui and Waiau rivers.
2. Since June 2014, all farmers in the Hurunui catchment who change their land use (as defined in the HWRRP¹) require resource consent. It is estimated that up to 150² farms would require resource consent.
3. The status of that activity is non-complying, meaning any consent cannot be granted unless it can be demonstrated that the adverse effects of the activity are minor or the activity is not contrary to the policies and objectives of the plan³.
4. The HWRRP provisions, colloquially referred to as the “10% rule”, have unintended consequences for normal dryland farming practices. Because the nitrogen loss rate of

¹ The HWRRP definition of “Change of land use” states:

For the purposes of this Plan a change in land use is calculated on a per property basis, and is determined as being an increase greater than 10% in the long-term average release of nitrogen or phosphorus to land which may enter water, measured on a kg/ha basis, but calculated on the gross load per property from the date this Plan is made operative.

² Pers. Comms: Michael Bennett (Environment Canterbury Land Management Advisor)

³ S104D Resource Management Act

dryland farms is very low (5-10kg N/ha/year), small changes that occur as a normal part of dryland farming may trigger the need for consent. For example, changes in the ratio of sheep to beef or changes in the area of fodder crops to address feed deficits can fall outside what is permitted and trigger a requirement for resource consent.

5. Since July 2015, the Canterbury Regional Council has focused its efforts on requiring consent from higher emitting farms and have not pursued consents from people undertaking normal dryland farming.

Land and Water Regional Plan

6. The Land and Water Regional Plan (LWRP) requires Nitrogen baselines and resource consents for around 2300⁴ individual properties across the Canterbury Region.
7. Industry⁵ has the capacity to prepare around 1,000 N Baselines per annum. The Canterbury Regional Council has capacity to process around 50 resource consents per month, with potential to increase this to around 70 per month.
8. It is expected that the resource consents load generated by the LWRP will take around 3 years (from November 2017) for industry and the Canterbury Regional Council to work through.

Efficiency

9. I have been asked to comment on the capacity of the Canterbury Regional Council to be able to manage the processing of the Hurunui consents, should the HWRRP be required to be implemented as written. I have also been asked to comment on the efficiency of focusing resourcing on the processing of consents for normal dryland farming under the HWRRP.
10. With regard to the first point, the estimated 150 resource consents needed in the Hurunui catchment would add an additional 3 - 4 months to the three years that it is anticipated it will take to consent properties exceeding permitted landuse limits in LWRP. This estimate assumes:
 1. The Canterbury Regional Council maintains its current resourcing (in terms of consent planners and available sub-contractors);
 2. The ability of industry to provide OVERSEER budgets and supporting assessments remains constant (1000 per year); and
 3. There are no increases in other consenting requirements introduced as a result of sub-regional or omnibus plan changes.
11. The environmental gains from consenting low loss (dryland) farm systems is likely to be negligible given the small losses involved (e.g. a farm currently losing 4 kg N/ha/yr, and would need consent for an additional 0.5 kg N loss/ha/yr).

⁴ These are made up of 1,000 properties with ≥ 50 ha of irrigation + 600 in Selwyn, 200 in Hinds, 100 in South Canterbury and 400 properties exceeding maximum winter grazing area in proposed PC5.

⁵ Within Canterbury plus resource brought in from other parts of NZ and taking account of plans to develop and expand capacity as well as the resource taken up with property sales and re-financing. Ravensdown has around 60% of the capacity with a current waiting list of 300 which will take 9 months to get through.

12. Consenting the 150 dryland farms in the Hurunui is likely to incur significant costs on the community. The non-complying status of dryland farming in the HWRRP means more a more robust assessment of effects is needed, but for low loss systems (such as dryland farms) the actual effects are likely to be minor. Doing an adequate assessment however (due to the non-complying status) is likely to be a significant time and cost burden on the applicant, in having to demonstrate the impacts of a small additional kg N/ha/yr on in-river loads (which can be difficult) is not contrary to the objectives and policies of the HWRRP.
13. If an adequate assessment is provided, then processing resource consents is likely to be relatively straight forward despite the non-complying status. This is due to the likely very minor effects of the additional nutrient loss. It is not likely the consenting process would provide significant environmental gains.

Attachment 2: Environment Southland proposed winter grazing provisions

Rule 23 – Intensive winter grazing

- (a) Until 30 May 2018, the use of land for intensive winter grazing is a permitted activity.
- (b) From 30 May 2018, the use of land for intensive winter grazing is a permitted activity, provided the following conditions are met:
- (i) a Management Plan is prepared and implemented in accordance with Appendix N, including the mitigations relevant to the farming type being undertaken and relevant physiographic zone, and provided to Environment Southland upon request, or the farming activity and the landholding on which the activity is undertaken is listed on the Environment Southland Register of Independently Audited Self-Management Participants;
 - (ii) no intensive winter grazing is undertaken in the Alpine physiographic zone;
 - (iii) not more than 20 hectares of intensive winter grazing is undertaken on a landholding within the Old Maitaura, or Peat Wetlands physiographic zones;
 - (iv) not more than 50 hectares of intensive winter grazing is undertaken on a landholding within the Riverine, Gleyed, Bedrock/Hill Country, Oxidising, Central Plains, or Lignite-Marine Terraces physiographic zones;
 - (v) the area of land used for intensive winter grazing is recorded for each year and provided to Environment Southland on request;
 - (vi) the location of any sub-surface drains within the area of land used for intensive winter grazing, and their outlet position and relative depth, is mapped and provided to Environment Southland upon request;
 - (vii) a vegetated strip is maintained, and stock excluded from, the outer edge of the bed of any river, wetland, modified watercourse or artificial watercourse for a distance of:
 - (1) 3 metres from the outer edge of the bed on land with a slope³ of less than 4 degrees; and
 - (2) 10 metres from the outer edge of the bed on land with a slope between 4 and 16 degrees; and
 - (3) 20 metres from the outer edge of the bed on land with a slope of greater than 16 degrees; and
 - (viii) the winter grazing does not occur within 100 m of the outer edge of the bed of any lake or the Coastal Marine Area;
 - (ix) overland flow of run-off water does not cause a conspicuous discolouration or sedimentation of any adjacent waterbody.
- (c) From 30 May 2018, the use of more than 20 hectares of a landholding for intensive winter grazing in the Old Maitaura, or Peat Wetlands physiographic zones or 50 hectares in the Riverine, Gleyed, Bedrock/Hill Country, Oxidising, Central Plains or Lignite-Marine Terraces physiographic zone is a restricted discretionary activity, provided the following conditions are met:
- (i) the area of land used on the landholding for intensive winter grazing has not increased beyond the area of land used, averaged over the previous three years;
 - (ii) conditions (v) to (ix) of Rule 23(b) are met; and
 - (iii) a Management Plan has been prepared in accordance with Appendix N;

Environment Southland will restrict the exercise of its discretion to the following matters:

1. the quality of, compliance with and auditing of the Management Plan;

³ Slope in Rule 23 is the average slope from the outer edge of the bed to a point 20 metres from the outer edge of the bed.

2. the proposed management practices to minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land;
3. the quantum of and timing of any reductions in the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land;
4. the potential benefits of the activity to the applicant, the community and the environment;
5. the potential effects of the land use on surface and groundwater quality and sources of drinking-water.

An application for resource consent under Rule 23(c) will be processed and considered without public or limited notification unless the applicant requests notification or Environment Southland considers special circumstances exist that warrant notification of the application.

- (d) From 30 May 2018, the use of land for intensive winter grazing in the Riverine, Gleyed, Bedrock/Hill Country, Oxidising, Central Plains, or Lignite-Marine Terraces physiographic zones that does not meet condition (i), or (v) to (ix) of Rule 23(b) or condition (i) to (iii) of Rule 23(c) is a discretionary activity.
- (e) From 30 May 2018, the use of land for intensive winter grazing in the Old Maitava or Peat Wetlands physiographic zones that does not meet conditions (i) to (iii) of Rule 23(c) is a non-complying activity.
- (f) From 30 May 2018 and despite any other rule, the use of land for intensive winter grazing within the Alpine physiographic zone is a prohibited activity.
- (g) Despite Rule 23(a) to (f) the use of land for intensive winter grazing is a restricted discretionary activity, provided the following conditions are met:
 - (i) the activity occurs on those parcels of land wholly contained with Computer Freehold Registers SL134/119, 307310, 307311, SL198/159, and SL151/191; and Lot 5 DP 376415 as contained in Computer Freehold Register 307305, and Lots 6 and 7 DP 376415 and Part Lot 8 DP 376415 as contained in Computer Freehold Register 307307;
 - (ii) the primary purpose of the activity is to contribute to publicly available research on the mitigation of environmental effects of dairy farming or wintering;
 - (iii) a Management Plan is prepared and implemented in accordance with Appendix N including the mitigations relevant to the farming type being undertaken and relevant physiographic zone, and provided to Environment Southland.

Environment Southland will restrict the exercise of its discretion to the following matters:

1. the quality of and compliance with and auditing of the Management Plan;
2. the proposed research to be undertaken and associated environmental effects, including methods and timing of publication.
3. monitoring and reporting
4. the proposed management practices to minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land;
5. the potential benefits of the activity to the community and the environment.