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## **Submission on the Resource Management (Stock Exclusion) Regulations 2020: Proposed changes to the low slope map**

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The Chatham Islands Council is thankful for the opportunity to submit on the proposed changes to the low slope map (the Map) under the Resource Management (Stock Exclusion) Regulations 2020 (the Regulations). We look forward to further opportunities to participate in the development and implementation of the Regulations.

This submission is split into two parts: comments about the proposed low slope map itself, and responses to the discussion document, including the specific questions raised in the document.

Text written in italics is taken directly from the discussion document. It is used for context purposes only.

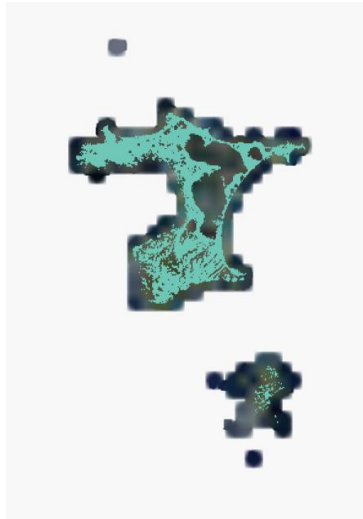
### **Background and context**

The Chatham Islands Council (the Council) was set up under the Chatham Islands Council Act 1995 and governs the Chatham Islands Territory. The Council has the functions, duties, and powers of both a territorial authority and a regional council. The Council has a single resource management document that contains all the information that the Resource Management Act 1991 (RMA) requires to be contained in a regional policy statement, a regional coastal plan, and a district plan.

### **Proposed new low slope map**

Under Clause 4 of the Regulations, *low slope land* means land identified as low slope land in <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/stock-exclusion>. When the original low slope land map was released along with the Regulations in 2020, no low slope land was identified on the Chatham Islands. This effectively meant that the parts of the Regulations applying to low slope land did not apply to the Islands.

The proposed new map includes the Chatham Islands:



*This map shows areas where cattle, deer and pigs will need to be excluded from waterways from 1 July 2025. It includes land where the local average slope (in the surrounding 4.5 hectares) is 5 degrees or less. The area identified covers nearly all of Chatham Island and a proportion of Pitt Island. In effect cattle (there are currently no deer or pigs farmed on the islands) will need to be excluded from waterways on all farms on Chatham Island, as well as on most farms on Pitt Island.*

*Certain areas of low slope land covers such as settlements and lakes and ponds are not included in the map. These are areas where it is considered that conversion to an intensive grazing land use is very unlikely. Areas of tall tussock and depleted grassland are also omitted on the basis that land with these ground covers is unlikely to ever be intensively stocked. The map identifies large areas of land on the Chatham Islands that are also unlikely to be intensively stocked. These areas are predominantly covered in bracken and scrub, have few fences and very low stocking rates. We would like to see such areas treated in the same way as tall tussock and depleted grassland because the natural limits on intensive grazing are very similar.*

## **Discussion document: Ministry for the Environment and Ministry for Primary Industries. 2021. Stock exclusion regulations: Proposed changes to the low slope map. Wellington: Ministry for the Environment.**

### **Section 1: What we are consulting on – proposed changes to the low slope map for stock exclusion:**

*The proposed changes to the current map aim to ensure an appropriate balance is reached between the nationwide consistency of requirements in regulations and the on-farm tailored flexibility of freshwater farm plans. Nationwide consistency does not work particularly well when there are exceptional circumstances like those experienced on the Chatham Islands. Freshwater Farm Plans, if the regulations governing them allow for sufficient flexibility, would be a much more suitable means of achieving freshwater outcomes on the Islands. The Council also has very limited staffing and enforcing compliance with the stock exclusion regulations would be far more difficult and less effective than using certifiers and auditors to develop and monitor compliance with Freshwater Farm Plans.*













**Context for the proposed changes to the low slope map:**

*It should be noted that the current map includes any land currently grazed and any land that could be changed into a pastoral system in future. The map needs to include these areas because it is the land-based trigger for the requirement to exclude beef cattle and deer from access to waterways.*

If we look at the LUCAS land use map below, we can see that there is very little high producing grassland on the Islands and that a great deal of Chatham Island is classified as grassland with woody biomass. This reflects the fact that much of the land is covered in bracken and scrub. This land is currently extensively grazed by sheep and cattle at low stocking rates and is unlikely to be changed into pastoral use in the future. We believe that the best method for protecting waterways on the Islands is by means of Freshwater Farm Plans rather than the



Stock Exclusion Regulations.  
LUCAS Chatham Islands Land Use Map v002

-  Pre-1990 natural forest
-  Pre-1990 planted forest
-  Post-1989 forest
-  Grassland - with woody biomass
-  Grassland - high producing
-  Grassland - low producing
-  Cropland - perennial
-  Cropland - annual
-  Wetland - open water
-  Wetland - vegetated
-  Settlements
-  Other land

*Given that high-slope land and extensive pastoral systems tend to be stocked at lower rates, the marginal environmental benefit of excluding stock from accessing waterways in these areas is lower, for significantly higher costs. It was intended that freshwater farm plans would be used*

*to manage some stock exclusion requirements in these areas. Freshwater farm plans provide for a tailored risk-based approach to reduce the impacts of pastoral activity.* This argument can also be made for the Chatham Islands where stocking rates are low, and the cost of excluding stock from waterways is high. Freshwater farm plans are a more appropriate tool for protecting waterways on the Islands than regulations.

### **Questions – Context for the proposed changes to the low slope map**

1. Do you agree with our framing of the issue? If not, why not?

On the whole we agree with the framing of the issue. We would like to see the Chatham Islands treated in the same way as high-country land for the following reasons:

- The current map does not identify any areas of low slope land on the Islands, whereas the proposed map identifies nearly all the available land on Chatham Island and a proportion of the land on Pitt Island. Adoption of this map would have serious consequences for the farmers on the Islands. There does not seem to have been sufficient consideration of the economic effects on farmers, especially those on the Chatham Islands.
- We consider that the argument for removing high country land from the low slope map (and therefore from the requirement to exclude beef cattle and deer from access to waterways) can equally be applied to the land on the Chatham Islands. Farming operations on the Islands also tend to have low stocking rates and the cost of excluding stock from waterways on the Islands is considerably higher than on mainland New Zealand because of isolation, high freight charges and zero unemployment. As such, the marginal environmental benefit of excluding low stock numbers from waterways and the high costs of exclusion indicate that the use of freshwater farm plans to protect waterways would be more appropriate than the use of the Stock Exclusion Regulations.

2. What other information should we consider?

The unique difficulties that the Chatham Islands face in implementing the stock exclusion regulations should be taken into account when deciding what land should be included on the low slope map. These difficulties include their isolation and consequent high cost of materials for fencing, zero unemployment and relatively high labour costs. The price of fencing materials on the Islands are at least 40% higher than on mainland New Zealand.

Low farm returns are an issue for farmers as stock have to be shipped to the mainland at considerable cost, owing to the lack of processing facilities on the Islands. Farms on the Islands are not treated with synthetic nitrogen fertiliser, also because of high freight costs. This keeps stocking rates low in comparison with mainland farms. Further economic stress and financial hardship are likely to be the result if the Islands are included in the low slope map as proposed.

### **Section 2: Assessment criteria:**

#### **1. Effective**

- *Is fair and treats regulated parties equally*

## **2. Practical:**

- *Flexible – takes a risk-based approach and tailors mitigations to the farm scale*
- *Enabling – engages and empowers farmers to achieve freshwater outcomes*
- *Achieves maximum benefits with minimum wasted effort or expense.*
- *Considers positive and negative impacts on the wellbeing of people (individuals and communities) and freshwater*

### **Question – Assessment criteria**

3. Do our objectives and criteria focus on the right things? If not, what would you change and why?

We consider that the objectives and criteria focus on the right things, but in our view they will not be met for the Chatham Islands through the use of the proposed low slope map to determine where stock should be excluded from access to waterways.

We consider that the proposed changes to the map are not fair and do not treat regulated parties equally. The situations for high country farmers and farmers on the Chatham Islands are very similar in that they have low stocking rates and high costs relating to excluding stock from waterways and yet they are being treated very differently. Farmers on the Chatham Islands will be disadvantaged relative to high country farmers as a result of including the Islands on the low slope map but not including high country on mainland New Zealand.

The proposed map does not support a flexible, risk-based approach on the Islands, rather their unique circumstances are being ignored. The Islands' farmers would like to be able to tailor mitigations to the farm scale by the use of freshwater farm plans rather than the regulations to protect their waterways from stock access. The risk to waterways on the Islands is mostly low and managing these risks through the regulations is a disproportionate response. The use of freshwater farm plans would also allow farmers to be engaged and empowered to achieve freshwater outcomes.

In our view, maximum benefit with minimum wasted effort or expense would be better achieved under the freshwater farm plan process than through the application of the regulations. As such we would like the Chatham Islands not included in the low slope land map.

The wellbeing of people on the Islands would be seriously affected by their inclusion on the map. Farmers already face significant financial difficulties as a result of their isolation and the additional cost of implementing the regulations would negatively impact their wellbeing.

## **Section 3: Proposed changes – introduction of a new map**

### ***We propose a different mapping approach***

*2. managing the need to exclude stock from waterways in areas with an average slope of between 10 degrees to 5 degrees through freshwater farm plans. This will significantly reduce the likelihood that high slope land is captured by the low slope map. Stock exclusion on this land will be addressed through a risk-impact assessment in a certified freshwater farm plan, with a presumption that stock will need to be excluded from waterways. This approach should be implemented for the whole of the Chatham Islands for the reasons outlined earlier in this submission.*

4. removing depleted grassland and tall tussock areas from the map. As with the altitude threshold, this will contribute to ensuring that land with a low carrying capacity and that is stocked extensively is managed appropriately through freshwater farm plans. Much of the Chatham Islands land also has a low carrying capacity owing to the scrub and bracken covering the land. The same method of protecting waterways should be applied to the Chatham Islands, high country land, and areas of depleted grassland and tall tussock as all these areas face the same issues.

### ***Managing stock exclusion through the proposed map and freshwater farm plans***

*A national map provides a consistent nationwide tool for identifying where the greatest risk to freshwater lies in relation to stock intensity. In identifying this risk accurately, mandatory requirements through the regulations should aim to minimise unnecessary or unintended impacts.* Freshwater on the Chatham Islands is not in an area of greatest risk in relation to stock intensity. Stock levels are low and the Islands should not be included on the map.

### ***Applying a 500 metre altitude threshold and removing tall tussock and depleted grassland from the map***

*The current map does not include an altitude threshold. This means that it captures some high-country areas of extensive pastoral farming that Cabinet did not intend to be subject to mandatory stock exclusion requirements in regulations. These areas, which are generally stocked at lower rates, are particularly difficult to access. Requiring stock to be excluded from accessing waterways in extensive pastoral farming systems in such areas would impose significantly higher costs relative to the benefits to freshwater ecosystems.* The same argument applies on the Chatham Islands where there are low stocking rates, and there are significantly higher costs relative to the benefits to the freshwater ecosystems than is the case on most of mainland New Zealand.

*To address this, we propose that land above 500 metres in altitude is not captured by the low slope map and is managed through freshwater farm plans. This will ensure that land management above this altitude threshold takes into account the challenges of excluding stock from waterways in the high country. We also propose that tall tussock and depleted grassland should be removed from the map. This serves as a proxy for likely stock intensity, because areas with these ground cover categories are unlikely to have high stocking rates.* We consider that the Chatham Islands should also not be included in the low slope map as there are significant challenges to excluding stock from access to waterways, much of the land is covered in scrub and bracken fern, and waterways can be effectively protected through the use of freshwater farm plans rather than the Regulations.

### ***Cumulative impact of the proposed changes to the low slope map***

*When it agreed to consult on stock exclusion regulations in 2019, Cabinet agreed that national regulation would not apply to low intensity high country farming. Cabinet's intention was to have a balance between the use of regulations and freshwater farm plans.* In many ways farming on the islands is similar to high country farming in the rest of New Zealand. We do not know whether Cabinet's intention was that national regulation would apply to low intensity farming on the Chatham Islands. We consider that for the same reasons high country land is not included in the low slope map, the Chatham Islands should also not be included.

*Any stock exclusion requirements on land not captured by the proposed map will be managed by freshwater farm plans, which are risk-based and so allow for discretion.* This should also be allowed for the Islands.

## **Case study of the proposed map in practice**

*Note that the proposed map includes coverage of the Chatham Islands, which were not included in the current map.* This sentence indicates that a deliberate decision has been made to include the Chatham Islands in the proposed map. We have not received any information regarding how this decision was arrived at and there has certainly been no consultation with the Council on the inclusion of the Islands on the map. Had any consultation taken place, we would have opposed this decision on the grounds outlined in this submission.

### **Questions – Proposed changes – introduction of a new map**

4. Do you think the changes to the low slope map will more accurately capture low slope land?

The Council does not have a position on how accurately the map captures low slope land.

5. Do you agree that the 500-metre altitude threshold should be added?

We agree that the 500-metre altitude threshold should be added and consider that the Chatham Islands should not be included in the low slope map for the same reasons as high-country land. In both cases stocking rates are low and fencing is difficult and expensive. The costs outweigh the benefits of inclusion on the map and waterways can be effectively protected through the use of freshwater farm plans.

6. Do you agree that the regulations and freshwater farm plans are complementary ways to manage the need to exclude stock from waterways? If not, why not?

We agree that the regulations and freshwater farm plans are complementary ways to manage the need to exclude stock from waterways. We consider that high intensity farming on areas such as the Canterbury Plains where waterways are already degraded should be managed through the regulations, whereas low intensity farming in high country areas and on the Chatham Islands should be managed through freshwater farm plans.

7. If you own land captured by the map, does the proposed low slope map layer reflect what you would expect to be captured?

The Council does not have a position on how accurately the proposed map reflects what would be expected to be captured.

## **Section 4: Initial regulatory impact analysis of proposed options**

### **Option 1: Status quo**

*Option 1 proposes retaining the current map in the Resource Management (Stock Exclusion) Regulations 2020 used to identify low slope land. The map averages slope across a land parcel and applies to areas with an average slope of 10 degrees or less. It is designed to capture currently grazed land, and areas where land use could potentially be changed to grazing. The map's objective is to identify where beef cattle and deer must be excluded from waterways from 1 July 2025. Feedback has shown that the map captures areas of steep and high-altitude land, to an extent that is inconsistent with Cabinet's original intention in agreeing to consult on stock exclusion regulations. We would support retention of the current map or amendment of the proposed low slope map to remove land on the Chatham islands. If the current map is retained or the proposed map amended as suggested, stock exclusion would be managed through the freshwater farm plan process.*



## **Option 2: Proposed changes to the low slope map (preferred option)**

*Option 2 responds to significant concerns expressed by the primary sector, including about negative impacts on the wellbeing of people (individuals and communities) because the regulations captured more land than was the policy intent. The inclusion of the Chatham Islands on the proposed map will negatively impact on the wellbeing of people on the Islands. Complying with the regulations will be very difficult financially for farmers with already low incomes, due to isolation and the need to pay for freight on materials and on animals sent to the mainland for processing. The costs of complying with the regulations outweigh the benefits of excluding stock from all waterways on land with low stocking rates. It would be more appropriate to manage stock exclusion on the Islands through the freshwater farm plan process.*

### **Questions – Impact analysis of the proposed options**

8. Do you agree with our preferred approach? If not, why not?

We do not agree with the preferred approach for the reasons outlined above. Inclusion of the Chatham Islands on the low slope map would have serious consequences for people on the Islands that would outweigh any benefits to the waterbodies. Protection of waterways should instead be managed through the freshwater farm plan process.

9. What other information should we consider?

Consideration should be given to the unique difficulties faced by Chatham Island farmers in complying with the stock exclusion regulations. These include the effects of isolation (including high freight costs for materials, the need to ship animals from the Islands to mainland New Zealand for processing, and a lack of available labour). Limits on stock intensification owing to scrub and bracken groundcover, high freight costs for fertilizer, and limited freshwater availability mean that farmers do not have the incomes enjoyed by their counterparts in the rest of New Zealand. These limits on stock intensification also result in lower risk to the waterways, similar to that on high country land that is excluded from the low slope map. We ask that the Chatham Islands be treated in the same manner as high-country land and that they are not included in the low slope map.

10. What are the likely impacts and cost implications of the preferred approach (Option 2) compared with the status quo (Option 1)?

With fencing costs at least 40% greater than on mainland New Zealand, a lack of available labour, and low farm incomes, the cost implications for Chatham Islands farmers are significant. Option 2, where land on the Islands is identified on the low slope map, would mean financial hardship for farmers with little additional environmental benefit above what would be achieved by managing stock exclusion through the freshwater farm plan process.

## **Section 5: Options we are not considering**

*We are not recommending any exemptions from the proposed map for stock exclusion regulations. We note that high country land, depleted tussock and depleted grassland are exempt.*

*Section 360 regulations are constrained by law in the level of interpretation they can provide for. The stock exclusion regulations cannot be written to provide regional councils with the ability to exercise discretion over when requirements should and should not be enforced. This reinforces the need for the Chatham Islands to be excluded from the low slope map. There is no other means of allowing for the unique circumstances faced by farmers on the Islands.*

*The desirability of having discretion was the most frequently mentioned issue during our work with regional and primary sector stakeholders to investigate concerns raised about the current map. Stakeholders suggested that stock exclusion requirements need flexibility, to allow for specific place-based circumstances that may not be accommodated in the national map. This is particularly the case for the Chatham Islands where the specific place-based circumstances outlined in this submission are not accommodated in the map. We ask that the Chatham Islands be removed from the map.*

*The changes to the map outlined in section 4 (Option 2, the preferred option) are a response to stakeholders' desire for discretion around stock exclusion requirements. The use of freshwater farm plans to manage stock exclusion in areas above 5 degrees average slope (and also in areas above 500 metres in altitude) will mean discretion is available for stock exclusion through the freshwater farm plan system rather than section 360 regulations. Freshwater farm plans are risk-based, so measures to address stock exclusion will be as appropriate rather than mandatory requirements. This approach should also be available for land on the Islands rather than having it identified on the low slope map.*

### **Questions – Options we are not considering**

11. Do you agree our proposed changes to the low slope map address the need for stock exclusion requirements to have some flexibility? If not, why not?

We do not agree that the proposed changes to the low slope map address the need for stock exclusion requirements to have some flexibility. This may be the case for the rest of New Zealand, but the Chatham Islands are in the unique position of not having been included on the current map. If the current map is retained, the Islands will have considerably more flexibility in their approach to stock exclusion, as this will be managed through the freshwater farm plan process that allows appropriate measures to be undertaken in a manner that is tailor-made for each farm. The proposed changes to the map would result in the Islands having less discretion than they have under the current map.

### **Section 6: Estimated costs and benefits for regulated parties**

**Farmers and growers:** *The costs of complying with the regulations will vary between farmers. These costs are affected by factors such as the length of stream already fenced, the accessibility of the terrain in which their pastoral activity is based, and the type of livestock farmed. The suggested changes presented in Option 2 will significantly reduce the likelihood of the map capturing beef and deer farmers who were not intended to be. This will reduce operational costs, because beef and deer farmers incur the highest costs due to fencing infrastructure. Farmers on the Chatham Islands will face particular financial challenges if they are included on the low slope map. These have been outlined earlier in this submission. The farmers run beef cattle rather than deer or dairy cattle and as such fencing costs are high even without the extra freight costs that are particular to the Islands. We consider that this factor, in combination with the low risk to waterbodies associated with low stocking rates, indicate that the Chatham Islands should be treated in the same way as high-country land and not included on the low slope map.*

**Regional councils:** *Regional councils are responsible for enforcing compliance with the regulation and administering any infringement fees. We consider that Option 2 will more clearly define regional council responsibility regarding mandatory stock exclusion. Costs will be associated with administering the freshwater farm plan regime for land not captured by the proposed map. The marginal cost of this, however, will likely be negligible because all commercial farms will be required to have a freshwater farm plan, regardless of the proposals in this document. The Chatham Islands Council's role in monitoring compliance with the*

Regulations would need to be funded by Central Government as the population of 600 people could not be expected to meet the costs involved. It would be much more cost effective for the Council if the Islands' waterways were protected through freshwater farm plans that are monitored by certifiers and auditors not funded by Council. The Council also does not have staff available to carry out such compliance work.

## Limitations of analysis

*We have limited information on the total area of rivers fenced and the costs associated with excluding stock from accessing waterways. We would like to collect more information on these topics. While it is relatively straightforward to locate lakes and rivers passing through pastoral land in low slope areas, information is incomplete on how many of these (and wetlands) are already fenced and with what setback. This makes it difficult to establish with accuracy the total cost of any proposed regulations. To fill these knowledge gaps, information from the Survey for Rural Decision Makers was used to estimate the stream length already fenced. There has been little fencing of waterways on the Chatham Islands to date, and the Islands have a large number of waterways. As such the proposed inclusion of the islands on the low slope map would result in high costs to the Islands' landowners.*

**Regulated parties (farmers and growers) Costs:** *The one-off and ongoing maintenance costs for stock exclusion will fall most heavily on farmers with beef cattle because these farms have lower levels of existing stock exclusion, and occupy high slope land in steep terrain that can be difficult to access. These costs are higher in high-slope land due to accessibility. Option 2 results in a significant reduction in high slope land captured by the map from up to 11.5 per cent to an estimated 0.07 per cent. This will significantly reduce the costs between the two options. Benefits* *The proposed changes in Option 2 will reduce the amount of land captured by the mandatory regulation and the associated ongoing and one-off costs. The costs for stock exclusion on the Chatham Islands, where beef cattle are the only animals required to be excluded, are very high when freight and labour costs are taken into account. While beef farmers on the mainland will have lower costs if the proposed changes are adopted, the opposite is true for beef farmers on the Chatham Islands. This is one of the reasons that the Islands should not be included on the low slope map.*

**Regulated parties (farmers and growers) Costs:** *The monetised costs for Option 1 were estimated at \$1.1 billion present value, assuming fences costing \$5/m to \$20/m (depending on sector) and productivity in setbacks varying by sector. This leads to \$773 million in capital costs and \$17 million per year in productivity losses (given the land being grazed was reduced due to mandatory setbacks). Benefits:* *The estimate above includes beef cattle and deer in high country terrain being included in under the 10-degree slope threshold. These costs will reduce for Option 2 because of the proposed map changes. Management of stock exclusion on land outside the map through freshwater farm plans will enable a more targeted risk-based response to the need for stock exclusion. On the Chatham Islands, fencing costs are at least 40% higher than on mainland New Zealand. Option 2 is much more expensive for the Chatham Islands because they were not included on the current low slope map. The targeted risk-based response should be extended to the Islands as there is low risk and high costs associated with compliance with the Regulations.*

**Regional Councils:** *Costs: Regional councils will be responsible for the ongoing enforcement of the regulations. Option 2 will result in an increase in stock exclusion management through freshwater farm plans, which will reduce regional council compliance costs. Under Option 2, 'compliance' checks may be less frequent because freshwater farm plans include an audit check in the system. Benefits: Option 2 will provide confidence that stock exclusion via the map and freshwater farm plans is a more accurate and comprehensive way to ensure beef cattle and deer do not access waterways. There would be less cost for the Chatham Islands Council if stock exclusion is managed under freshwater farm plans than under the stock exclusion*

regulations. The Chatham Islands have a population of only around 600 people and as such the Council have a very limited rating base. In effect Central Government would be required to pay for compliance costs if the Islands are included on the low slope map.

**Questions – Estimated costs and benefits**

12. Do you agree with our estimation of the costs and benefits?

The costs and benefits are probably accurate for mainland New Zealand but the estimates do not apply to the exceptional circumstances faced on the Chatham Islands. The costs are much higher on the Islands as a result of high freight and labour costs, while the benefits are smaller because of low stocking rates and no fertiliser use.

13. What other information should we consider?

The council considers that they have covered all the relevant information in this submission. The Council would welcome further engagement with central government on the proposed changes to the low slope map. The Council asks that the unique circumstances facing farmers on the Islands be taken into account and that the Islands not be included on the low slope map.