



ESSENTIAL FRESHWATER: FREQUENTLY ASKED QUESTIONS

These Frequently Asked Questions (FAQs) have been prepared in response to questions posed to Horizons Regional Council by landowners, or some that we anticipate may be asked in relation to the Essential Freshwater package, released by Central Government on 5 August 2020.

Please note that these FAQs predominately refer to the amended National Environmental Standards, however will be added to or edited as we progress our understanding of the revised National Policy Statement (NPS-FM), new National Environmental Standards (NES-FW) for freshwater management, and Resource Management Act s360 regulations for stock exclusion and measurement and reporting of water takes that came into effect from 3 September 2020.

We are currently analysing the new requirements against Horizons' Regional Policy and Regional Plan (collectively referred to as the [One Plan](#)), which sets out an integrated management framework for management of the environment. While the One Plan covers many of the same areas as the new requirements, changes will be required to give effect to the new national direction. A revised Regional Policy Statement and Regional Plan needs to be in place by 2024.

Horizons is currently working through the requirements and implications for monitoring and enforcement. We encourage all landowners to become familiar with what is required. A good starting point for this are the Ministry for the Environment's policies and regulations factsheets [found here](#), and your industry groups.

Should you require any additional information, please email us at info@ourfreshwaterfuture.nz. If you would like to stay informed on how we are giving effect to the Essential Freshwater package please subscribe to [Our Freshwater Future newsletter](#).

Land use intensification

1. Can I intensify my land use?

a. Existing Consents

If you already have an existing Land Use Consent for Intensive Farming and you are not intending to intensify or increase your farm area, the NES-FM will not affect this. However, if you are planning to increase the area of your dairy farm by 10ha or more, or are planning to convert 10ha or more of forestry to a pastoral farming system a new resource consent will be required. See (b) below.

The One Plan already requires a resource consent for conversion of land use to intensive farming (dairy, cropping, intensive sheep and beef and commercial vegetable growing).



b. Future Consents

Temporary standards have been introduced through the NES-FW, which essentially discourage intensification of certain types of land use. This includes conversion of plantation forestry to pastoral land use, conversions of farmland to dairy farm land, irrigation or dairy farm land, and use of land for dairy support. These standards apply from now until 1 January 2025.

For a consent to be granted, applicants would need to be able to demonstrate that contaminant loads and concentrations will not increase from those loads and concentrations as at 2 September 2020.

2. Can I increase the area of winter cropping on my farm? What should I do if I have already purchased seed for next year?

You will need a discretionary consent to increase the area of winter cropping by more than what was used during 1 July 2014 to 30 June 2019. For the consent to be granted, you would need to be able to demonstrate that contaminant loads and concentrations will not increase from those loads and concentrations as at 2 September 2020. This essentially discourages intensification of winter cropping, as the threshold to show no increase in contaminant loads is going to be difficult to show.

If you have already purchased seed for next season (for winter grazing 2021); provided the effects of the winter grazing activity in 2021 are the same or similar in character, intensity, and scale to how you have previously managed the activity, then you are entitled to existing use rights under the RMA, to continue the activity through the winter of 2021 provided you apply for a consent for the activity moving forward by 31 October 2021.

3. The current rules within the One Plan address changes in land use, but do these apply to increased winter grazing area and if so, how? I understand it will use a baseline cropping area no greater than what was used from 2014/2015 – 2018/2019.

Overall, the One Plan does not extensively deal with winter grazing. The activity being regulated under the NES-FW is the grazing of the crop, not the cultivation or growing of the crop. Under the current One Plan regime we only address cultivation or growing of forage crops via nutrient management plans. The Plan does not regulate the act of grazing these crops and the subsequent discharge of contaminants onto or into land from that grazing.

The baseline does apply as detailed in the NES-FW. The NES-FW refers to this as the reference period.

4. I want to convert a forestry block to sheep and beef (30 hectares), what do I need to do?

See above (1) – 10ha is max

Horizons' One Plan does not currently address the conversion of forestry to sheep and beef however, it does address conversion to intensive (irrigated) sheep and beef through rules around intensive farming land use. Systems are currently being set up to help process such applications. In the meantime, we recommend that landowners familiarise themselves with the relevant sections of NES-FW (Regulation 16) and the One Plan requirements for forestry and intensive farming land use (if applicable).





Intensive winter grazing

5. What is the definition of intensive winter grazing?

Intensive winter grazing, as defined in the NES-FW, means grazing livestock on an annual forage crop at any time in the period that begins on 1 May and ends with the close of 30 September of the same year.

a. What is an annual forage crop?

Annual forage crop, as defined in the NES-FW, means a crop, other than pasture, which is grazed by livestock in winter in the place it is grown and is re-sown annually. Examples of annual forage crops include fodder beet, brassicas and oats.

b. Sheep included?

Yes. The requirements are for “livestock” which we interpret to mean all stock, including sheep and/or deer.

c. Does grazing have to be behind a wire to be classed intensive winter grazing?

No.

6. If intensive winter grazing has a grand parenting clause, if I buy some land that has not had intensive winter grazing before am I prohibited from doing any?

Same as Q.1.

7. Will Horizons accept consent applications now for intensive winter grazing? What terms of consent can be granted i.e. is it an annual consent or can longer terms be granted? What is the cost of obtaining a consent?

Yes we can accept, however we are not encouraging people to apply at the moment. We can't grant a consent until 1 May 2021. You can continue to carry out intensive winter grazing next winter so long as the scale remains the same and your consent is lodged before 31 October 2021.

a. What terms of consent can be granted i.e. is it an annual consent or can longer terms be granted?

The term of a consent will be determined on a case by case basis. Please go to the Horizons website to see a flowchart on intensive winter grazing consenting requirements.

b. What is the cost of obtaining a consent?

Horizons' consent processing cost is yet to be determined. It is important to note that there will be additional costs involved for the applicant (for example, cost to put together the application – including liaising with iwi, which should be undertaken before applying for consent).

Winter cropping

8. How would you even know what the maximum winter cropping was in the last five years?

Horizons already holds some information, however we will rely on consent holders to make reasonable attempts to provide further, accurate information such as fertiliser and seed receipts and general farm records.

9. How will cut and carry crops fit in?

Cut and carry is not included in the regulations. Any activities would, however, need to be assessed against the One Plan requirements.



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Stock exclusion regulations

10. What is the definition of a river?

Stock exclusion regulations apply to 'wide rivers' - any river (as defined by the RMA 1991) with a bed that is wider than 1 metre anywhere in a land parcel.

River, as defined by the RMA, means *"a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)"*.

A modified water course is still a 'river' (e.g. a watercourse that has been straightened over time).

11. How do I deal with places where there is no flow, however there is a bed and bank but the stream has now moved to a new course?

There would need to be intermittent flow to meet the definition of a 'river', if not then the new course would apply.

12. Is there any distinction between ephemeral and permanent waterways?

Yes. A wide river (more than one metre wide at any point on a parcel of land) is defined under the regulations as any permanent or intermittent water body (see full definitions below). These rivers require stock exclusion.

An ephemeral waterway is an area of land with no defined waterbed which is above the water table at all times. It only flows during, and shortly after, rain events. Ephemeral waterways are not covered by the regulations.

Permanent watercourse – the continually flowing reaches of any river or stream.

Intermittent watercourse – stream reaches that cease to flow for some periods of the year because the bed can be above the water table at times.

If you would like further clarification on differentiating between an ephemeral and intermittent water course, please email us at info@ourfreshwaterfuture.nz or call the Horizons consents team 0508 800 800.

13. If a stream is 1 m wide on my neighbour's land but not on mine do I still need to fence?

No. The stream would need to be 1 m wide on your land parcel before you need to exclude stock (you may have other management tools to exclude stock without fencing).

14. How far from the edge of the riverbed does the fencing need to be?

The regulations state 'stock must not be allowed closer than 3m from the edge of the bed.'

- a. If the bank has been widened from a flood event in the past where do I measure the 3 m from?
Under the RMA, 'bed' is defined as the space of land which the waters of the river cover at its fullest flow without overtopping its banks.

15. Is it literally a stream that's 1m wide at any point on the land parcel irrespective of points where a stream bows more than 1m, but the majority of the stream is less than 1m.

Yes. The definition is - any river (as defined by the RMA 1991) with a bed that is wider than 1 metre anywhere in a land parcel.



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16. On rivers where there is significant annual flooding, would a 1-wire electric fence meet the regulations?

The regulations don't specify requirements for new fences, only existing fences that are in place as at 3 September 2020. In this instance, they need to have a minimum of 2 wires and driven or dug fence posts to qualify (deer fencing and post and batten fencing with driven or dug fence posts also qualify).

Low slope map

17. Are landowners responsible for ensuring their slope matches what's shown on the Ministry for the Environment's low slope map?

Yes. The regulations specifically reference land identified as low slope land on [MfE's map](#) – in other words this is not a guidance document rather the measure for whether land is considered 'low slope' or not. Landowners need to comply with the fencing rules that apply for low slope land displayed on this map by 1 July 2025.

We understand that MfE's map may be inaccurate at farm scale for your land, if you have concerns on what is displaying please contact MfE directly at freshwater@mfe.govt.nz.

18. If my land is captured in MfE's low slope map, but the stream is in hills do I still need to fence?

Yes, the regulations specifically reference the MfE low slope map.

Synthetic nitrogen fertiliser

19. What are Horizons plans for dealing with the amount of nitrogen fertiliser allowed to be put on land? Is there to be a capping limit on how much can be applied?

The One Plan has rules around the use of fertiliser (noting that Horizons' definition is broader than just synthetic nitrogen fertiliser and applies to other types of fertiliser) which triggers information provision from the landowner for application of 60kg/ha/year averaged across the whole farm area or in excess of an average of 150 kg/ha/year on any application area, however there is no cap.

The NES-FW introduces a cap on synthetic nitrogen fertiliser of no more than 190 kgN/ha/year. This applies to land in pastoral use (averaged over total area of land) and to each hectare not used to grow forage crops. From 31 July 2020, dairy farmers will be required to provide information annually to Horizons about their fertiliser use.

Wetlands

20. What is the definition of 'natural wetland' for the purposes of stock exclusion?

The RMA defines a wetland as *"permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions"*.

A natural wetland is not -

- a. a wetland constructed by artificial means unless it was constructed to offset impacts on, or restore, an existing or former natural wetland; or
- b. a geothermal wetland; or
- c. any area of improved pasture that, at the commencement date (3 September 2020), is dominated by (i.e. more than 50% of) exotic pasture species and is subject to rain-derived water pooling.



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Stock exclusion regulations require stock (excluding sheep and feral animals) to be excluded from all natural wetlands of 0.05 ha or more on low slope (<10 degree slope) and any wetlands identified in a regional or district plan.

21. 'Domination of exotic pasture' seems quite subjective and may also fluctuate based on the season.

The NES-FW stipulates improved pasture as an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

Pest plants and animals

22. Is there a potential for a large increase in habitat for pest plants and animals?

Yes, there is potential for habitat for pest plants, particularly if stock exclusion areas are not well-managed.

Water takes

23. Do I need a consent for a permitted water take? If the Government changes the rules again will I have existing use rights?

No, Horizons cannot issue resource consent where a consent is not required, for example where an activity is permitted under the One Plan. If these rules change and you then require a resource consent then you will have 6 months from the date the rule becomes operative to apply for a consent.

Consenting

24. How much will consents cost?

The cost of consent is determined by the complexity and time required to process an application – costs associated with fixed fee deposits will be confirmed in due course. See 6b for consent costs which includes additional costs for preparing the application.

25. What advice can we provide in advance of consents being required?

We encourage farmers to familiarise themselves with the Ministry for the Environment's regulations and guidelines², and Horizons' One Plan¹, and undertake their activities in accordance with best practice guidelines and seek advice from sector representatives.

We recommend early engagement with iwi and Horizons, as required.

Application forms will be available on our website in due course, so landowners can apply directly to Horizons if they wish.

26. A farmer has a dairy support block that is mostly grazing but also has one block of silage and hay, what consents will be required for these activities?

This is a permitted activity if the same area of the farm was used for dairy support between 1 July 2014 and 30 June 2019 (i.e. there hasn't been an increase in the area used for dairy support since that time).





If it does not meet this requirement, the activity requires a discretionary consent under the NES-FW. If the farm is located within a target catchment for nutrient management, then One Plan Rules 14-1 through 14-4 will also apply.

Enforcement and monitoring

27. Will consent monitoring be similar to dairy shed monitoring?

Yes. We will be undertaking inspections and charging for this as provided for under the NES-FW. We will provide further information about this via our Long-Term planning process.

28. Do farmers have to provide access to land?

Yes, if a council officer is warranted under the RMA then farmers must provide access to their land.

29. How will we monitor pugging?

We will be monitoring pugging however, the methodology is yet to be determined. Horizons will continue to work with other regional councils, primary sector representatives and MfE around this.

Disclaimer:

These FAQs have been made by Horizons' staff in good faith and are based on the information made available by the Ministry for the Environment and an initial comparison against the One Plan as at 15 September 2020. Horizons makes no warranty, expressed or implied, nor assumes any legal liability or responsibility for the accuracy, completeness or use of this information or views communicated. It is a landowner's responsibility to take their own professional planning and/or legal advice, and to rely solely on that advice in making any application for consents, permits or licences.



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