



National Environmental Standards

# Freshwater Intensive Winter Grazing

UPDATED APRIL 2022



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REGIONAL COUNCIL



On 3 September 2020, central government's Essential Freshwater package was announced. These detail the national direction for halting the degradation of our rivers, lakes and streams. These rules apply to farms on which 20 hectares or more is in pastoral land.

In April 2022, central government announced that some of the new regulations around intensive winter grazing (IWG) would be deferred until 1 November 2022, however **national rules restricting the expansion of intensive winter grazing still apply.**

Once all IWG regulations come into force from 1 November 2022, farmers who are unable to meet the permitted activity standards will have to obtain a consent, unless they have a certified freshwater farm plan.

As the national rules restricting expansion still apply, any winter grazing in 2022 that does not meet the following conditions will require a consent:

- land on the farm must have been used for IWG during the period 1 July 2014 to 30 June 2019; and
- the area of the farm that is used for IWG must not exceed the maximum area that was used during the period 1 July 2014 to 30 June 2019.

This rule restricting IWG expansion is temporary and lasts until a change to Horizons' Regional Plan is notified giving effect to the National Policy Statement for Freshwater Management (NPS-FM) 2020, or by 1 January

2025, whichever is sooner.

This document is to help landowners who undertake intensive winter grazing to become familiar with the regulations and what is required for intensive winter grazing into the future.

Horizons Regional Council is currently working through the requirements and implications for monitoring and enforcement, however we encourage all landowners to become familiar with what is needed. There is an expectation that IWG practice noticeably improves over the coming year. A good starting point for this is the Ministry for the Environment's policies and regulations factsheets and your industry groups. Central government has recently released an Intensive Winter Grazing module that can inform IWG components of farms plans. It is recommended industry good practice is adopted for the 2022 IWG season.

To view the relevant central government documents go to: [bit.ly/mpfi-freshwater](https://bit.ly/mpfi-freshwater)

There are four parts to this document, and each is important for you to understand.

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**PART 1:** provides important definitions.

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**PART 2:** provides details for permitted activity intensive winter grazing.

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**PART 3:** provides some Frequently Asked Questions and responses.

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**PART 4:** provides the important dates for these intensive winter grazing rules.

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# PART 1:

## Important definitions



**Annual forage crop:** Annual forage crop means a crop that is grazed in the place where it is grown, but does not include:

- a. Pasture; or
- b. a crop that is grown for arable land use or horticultural land use (as those terms are defined in section 217B of the Act). **Arable land use:** includes grain and seed crops; maize and cereal silage; mangels. **Horticultural land use:** food or beverage crops for human consumption, or flowers.

**Bed:** In relation to any river:

- for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks;
- in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks.

In relation to any lake, except a lake controlled by artificial means:

- for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin;
- in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin.

In relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level.

In relation to the sea, the submarine areas covered by the internal waters and the territorial sea.

**Critical source area:** means a landscape feature such as a gully, swale, or depression that:

- a. Accumulates runoff from adjacent land; and
- b. delivers, or has the potential to deliver, 1 or more contaminants to 1 or more rivers, lakes, wetlands, or drains, or their beds (regardless of whether there is any water in them at the time).

**Drain:** Means any artificial watercourse designed, constructed, or used for the drainage of surface or subsurface water, but:

- a. excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes; but
- b. in regulation 26, excludes any subsurface drain.

**Freshwater farm plan:** Freshwater farm plans are under design and not required at this time. Over the next 12 or more months, the Government will engage with primary sector representatives, iwi and hapū, regional councils, environmental organisations and other interested groups to develop new regulations. The new regulations will set out requirements for freshwater farm plans and timeframes for when these plans are required.

It is likely that the freshwater farm plans will need to include:

- A farm map identifying features such as waterways, critical source (discharge of contaminant) areas, high erosion-prone areas and other risks to the health of the freshwater ecosystem;
- A risk assessment across specific activities including irrigation, application of nutrients and effluent, winter grazing, stock-holding areas, stock exclusion, offall pits, and farm rubbish pits;
- cultural effects;
- schedule of actions to manage identified features and address identified risks.

Freshwater farm plans will need to be:

- approved by a suitably qualified and experienced person;
- audited by independent auditors;
- enforced by regional councils.

**Intensive winter grazing:**

- a. Means the grazing of 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; and
- b. for the purpose of determining whether and how section 20A(2) of the Act applies to any requirement to obtain a resource consent under subpart 3 of Part 2 of these regulations, includes activities on a farm that support intensive winter grazing and may occur year-round, such as the preparation and sowing of land for grazing and the cultivation of annual forage crops.

**Lake:** Means a body of fresh water which is entirely or nearly surrounded by land.

**Pugging** is the penetration of soil to a depth of 5 centimetres or more by the hooves of grazing livestock.

**River:** 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).

**Wetland:** Includes 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.

Natural wetland means a wetland, as defined in the Act, that 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, is dominated by more than 50 per cent of exotic pasture species and is subject to temporary rain derived water pooling.

# PART 2:

## Intensive winter grazing requirements

### From 1 May 2021

For IWG to be permitted activity it must meet all of the following conditions:

- Land on the farm must have been used for IWG during the period 1 July 2014 to 30 June 2019; and
- The area of the farm that is used for IWG must not exceed the maximum area that was used during the period 1 July 2014 to 30 June 2019.

### From 1 November 2022

For IWG to be permitted activity it must meet all of the following conditions:

- The activity must be no greater than 50 hectares or 10 percent of the farm area, whichever is greater;
- The maximum slope of the area under crop used for IWG must be 10 degrees or less across any 20 metre distance;
- Livestock being grazed intensively must be kept at least 5 metres away from the bed of any river, lake, wetland and drain (excluding subsurface drains) regardless of whether there is any water in it at the time;
- IWG activities must protect critical source areas - they must be left ungrazed, have vegetation ground cover, and not be sown in annual forage crop;
- All reasonably practical steps must be taken to minimise the effects of pugging;
- The area where IWG has occurred must be replanted as soon as is practicable;
- Land on the farm must have been used for IWG during the period 1 July 2014 to 30 June 2019; and
- The area of the farm that is used for IWG must not exceed the maximum area that was used during the period 1 July 2014 to 30 June 2019.

**A resource consent will be required if all of these conditions cannot be met.**

Intensive winter grazing can be permitted where a farm has a certified freshwater farm plan that applies to IWG.



# PART 3:

## Frequently asked questions

### Do the rules apply to my property?

The rules apply to farms comprising 5 hectares or more of horticulture, 20 hectares or more of pasture or arable crops, or 20 hectares or more of a combination of any of these.

### How do I measure the maximum slope of a paddock?

There are many methods you can use to calculate the maximum slope of a paddock and further guidance will be provided on this shortly. Remember it's across 20metres distance and area under crop.

Note: The Low Slope Land Viewer RM (Stock Exclusion) Regulations 2020 map was produced specifically for the stock exclusion regulations (and uses the LINZ Primary Parcel Area). It is not suitable for determining the slope of a paddock for intensive winter grazing regulations.

### Are sheep included in these regulations?

Yes, sheep are included in the rules on intensive winter grazing under the NES-FW. However sheep are not included in the stock exclusion rules.

### Where do I measure the bed of a river, lake, drain or wetland from?

Under the RMA, 'bed' is defined as the space of land which the water of the river covers at its fullest flow without overtopping its banks. You would measure the edge of the bed from here.

For example, think of stream width as being the width during high flows (small flood) which occur on an annual basis rather than during dry periods.

### Where do I get a freshwater farm plan from?

Central government have yet to release the requirements for a freshwater farm plan and the certification process for those who can write the plan. At this time no one can design or certify a freshwater

farm plan for your property. However, central government has recently released an IWG module that will be used to inform IWG components of farm plans and enable them to be tested and incorporated into wider certified freshwater farm plans when they are rolled out from early 2022.

### 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, such as the costs associated with putting the application together. Included in that is the requirement to seek feedback from iwi on the effects of the activity on Māori cultural values. This needs to be completed before applying for the consent.

### How will I assess the effects on Maori cultural values?

This will require input from tangata whenua to consider your IWG plan to determine any adverse effects on their cultural values, as associated with the proposed site or area. Values may be associated with a significant site or wāhi tapu, mahinga kai (food source), or matters concerning ritenga (customary practice). Their assessment may outline the effects on their values and relationship to the sites, and it may also provide recommendations on how to avoid, remedy or mitigate adverse effects.

Contact details and indicative rohe for iwi and hapū groups can be found at Te Kāhui Māngai website: [www.tkm.govt.nz](http://www.tkm.govt.nz)

### 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.

### How do intensive winter grazing existing use rights apply?

If you carried out intensive winter grazing in the past and you're not planning on making any changes to the scale, scope or

intensity of your wintering, then you may have what's called 'existing use rights'.

Existing use rights will apply for intensive winter grazing from 1 November 2022, if the effects of the winter grazing activity in 2022 are the same or similar in character, intensity, and scale as to how you have previously managed the activity, provided you apply for a consent for the activity moving forward by 1 May 2023.

This means that if you do not meet the permitted activity standards of the new rules, you have a six month period to apply for a consent from when the wintering regulations come into force (1 November 2022). You can carry out your winter grazing in 2022, provided you apply for a consent by 1 May 2023 for the activity moving forward.

### Will Horizons accept consent applications now for intensive winter grazing?

IWG consent application forms can be completed or downloaded from our website at [bit.ly/Horizons-consents](http://bit.ly/Horizons-consents). Please note, until all IWG regulations come into force on 1 November 2022, we will only be accepting applications if you cannot meet the relevant standards below:

- land on the farm must have been used for IWG during the period 1 July 2014 to 30 June 2019; and
- the area of the farm that is used for IWG must not exceed the maximum area that was used during the period 1 July 2014 to 30 June 2019.

### For the winter grazing of 2021 that meets permitted activity (no expansions or new activities), what does the Council expect from farmers?

Farmers will be expected to operate at good farming practice as developed by their industry bodies. There will be increased monitoring by Horizons of activities on the ground with initial action taken to assist farmers to comply before enforcement of any breaches of the rules.

# PART 4:

## Important dates and further information

### FROM 1 SEPTEMBER 2020:

New Intensive winter grazing – all new intensive winter grazing or expansions established after June 2019 will need resource consent.

### Consent application forms and IWG Management Plan

Horizons has developed an IWG Management Plan to assist with completing a consent application. This can be found, along with the IWG consent application form, at [bit.ly/Horizons-consents](http://bit.ly/Horizons-consents).

### FROM 1 NOVEMBER 2022:

Intensive winter grazing – all intensive winter grazing that does not comply with permitted activity standards (Slope, 5m buffer and critical source area) will need resource consent. Applications must be made no later than 1 May 2023. Existing use rights apply until this date.

For further information and any questions, please contact Horizons' Rural Advice Team on freephone 0508 800 800

