



# 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](mailto: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.

- i. 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.

- i. 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. 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.

### 8. How do I measure the mean slope of a paddock?

There are many methods you can use to calculate the mean slope of a paddock and further guidance will be provided on this shortly.

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.

### 9. 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.

### 10. 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.



**11. Will Horizons accept consent applications now for intensive winter grazing?**

Consents cannot be granted until 1 May 2021 therefore we are not encouraging people to apply until closer to this time. You can continue to carry out intensive winter grazing in winter 2021 so long as the scale remains the same and your consent is lodged before 31 October 2021.

**12. 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 a 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.

**13. How do intensive winter grazing and existing use rights apply?**

If you carried out intensive winter grazing in 2020 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 in 2021, if the effects of the winter grazing activity in 2021 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 31 October 2021.

This means that if you do not meet the permitted activity standards of the new rules, you have a 6-month period to apply for a consent from when the wintering regulations come into force (1 May 2021). You can carry out your winter grazing next year, provided you apply for a consent by 31 October 2021 for the activity moving forward.

**14. 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.

## Winter cropping

**15. 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.

**16. 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.



## Stock exclusion regulations

### 17. 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).

### 18. 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.

### 19. 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 above). 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](mailto:info@ourfreshwaterfuture.nz) or call the Horizons consents team 0508 800 800.

### 20. 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).

### 21. I have a river that is under a metre wide except in a couple of places, where it is just over 1 metre wide. Is this counted as a 'wide river' under the stock exclusion rules?

Yes. The definition of a wide river means that if a waterway is wider than 1m (measured as the bed width bank-to-bank), anywhere within a land parcel the stock exclusion rules apply to the length of that river.



**22. 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.

**23. What kinds of fence do I need to meet the stock exclusion regulations?**

A permanent fence that 'effectively excludes' stock from the bed of the river or lake that is:

- a. a post or batten fence with driven or dug fence posts: OR
- b. an electric fence with at least 2 electrified wires and driven or dug fence posts; OR
- c. a deer fence.

OR

Riparian vegetation that 'effectively excludes' stock from the bed of the river or lake.

The regulations require that you exclude stock from lakes, wide rivers and wetlands. They do not specify how stock are to be excluded, as long as they are effectively excluded.

**24. Do I have to move my existing fences?**

In relation to wide rivers and lakes, you do not need to move an existing fence irrespective of whether it meets the 3m setback rule, provided it is a permanent fence that 'effectively excludes' stock, and is a fence that meets the criteria outlined above.

**25. Does a 1 wire electric fence count?**

If the 1 wire fence was installed after the 3<sup>rd</sup> September 2020, excludes stock identified under the regulations, and is 3 metres back from the stream edge then yes. If it existed prior to the 3<sup>rd</sup> September 2020 then no. However, if the fence was placed prior to the 3<sup>rd</sup> September 2020, is three metres back and excludes the stock in the regulations then a pragmatic approach would be yes.

**26. Do I have to fence or are other exclusion options available to me?**

It is required that stock identified in the regulations are excluded from waterways. For example, you could choose to keep stock out of paddocks which have waterways, as defined under these regulations, rather than fencing the stream off. However, please be aware of what changes this may require to your farming operation and that stock will need to be kept three metres from the waterway once the time periods come in. This means that occasionally grazing the cattle in the paddock to prevent grass getting away will not be allowed unless the cattle are somehow excluded from the water.

**27. My farm is identified as low slope however, the paddock with the waterway is greater than 10 degrees.**

**Do I still have to exclude stock from the waterway?**

Yes – the low slope map is included in the regulations and is not something that the Regional Council has discretion over. To remove land parcels requires a change to the regulations. For more information on low slope land see Questions 42 & 43.



**28. I will need to install a culvert for the stock crossing. Do I need a resource consent?**

Maybe – under the One Plan it could be a permitted activity provided it meets a number of conditions. In addition the NES-FW and fish passage requirements contain a number of parameters that also need to be met for a permitted activity. However, larger culverts and some areas (flood control and drainage areas) will require resource consents. If in doubt contact our consents team on freephone 0508 800 800.

**29. Are sheep included in these regulations?**

No, sheep are not included in the definition of ‘stock’ for the purpose of these regulations. However, sheep are included in the rules on intensive winter grazing under the NES-FW.

**30. I have excluded stock from all my streams under the Sustainable Dairying: Water Accord do I have to do additional work?**

Possibly – the definition of a waterway is different between the two requirements. The most stringent of the requirements will apply.

**31. I now need a reticulated water scheme as stock can no longer access the waterway for water. Can I take water from my local stream?**

The One Plan has a permitted volume of water that can be taken per property subject to a number of requirements. If you need more water than the permitted volume you will need to apply for a resource consent. Please contact Horizons to see if water is available in the water management zone in which you own land. Call our consents team on freephone 0508 800 800.

**32. Can I straighten my stream so that I can reduce the number of angles in my fence?**

Not without a resource consent. The One Plan contains a number of rules which relate to stream straightening. Provisions in the NPS-FM also actively discourage stream strengthening from occurring. Please contact our consents team on freephone 0508 800 800 prior to undertaking any such works.

**33. The stream that runs through my property holds a value for flood control and drainage in the One Plan. Do I require a resource consent prior to undertaking fencing along these waterways?**

Yes – activities such as the erection of a fence within 10 metres of the bed of a river valued for flood control/drainage within the One Plan requires a resource consent for the works to be undertaken.

**34. What if I can't meet the stock crossing rules, which limit crossing of the same lake or wide river to no more than twice a month?**

The stock exclusion rules, including requirements for stock crossing, apply to everyone who owns or controls stock with the exception of those who meet the criteria noted under Part 2, ‘Exceptions to the stock crossing rules’. Under the regulations, Horizons does not have the ability to issue a permit for additional crossings.



**35. What if a staff member is in charge of the stock?**

The regulations apply to 'a person who owns or controls stock'. If a staff member is in control of the stock, the rules apply to that staff member. Please ensure staff are made aware of these requirements, and their responsibilities under these regulations.

**36. 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.

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.

- i. '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.

**37. What is a natural wetland? How do I know if I have a natural wetland on my property?**

All stock must be excluded from any natural wetland identified in a district plan, or in Horizons' One Plan, that is operative as of 3 September 2020. See Question 44 below **What is the definition of 'natural wetland' for the purposes of stock exclusion?**

**Note:** Stock exclusion from wetlands on existing farms is not required until 1 July 2025. However, the rules apply as of 3 September 2020 for new farms.

**38. How do I know if a wetland on my property has been identified through regional or district plan or a regional policy statement?**

Contact Horizons' science team for advice at [biodiversity@horizons.govt.nz](mailto:biodiversity@horizons.govt.nz).

**39. What are 'threatened species'? How do I find out if I have a wetland with 'threatened species'?**

The definition of threatened species is in the NPS-FM rather than these regulations.

A threatened species is defined as "any indigenous species of flora or fauna that:

- a. relies on water bodies for at least part of its life cycle; AND





- b. meets the criteria for nationally critical, nationally endangered, or nationally vulnerable species in the
- c. New Zealand Threat Classification System Manual” - <https://bit.ly/NZ-Threat-Classification>.

**40. Is funding available to help with fencing?**

Horizons has limited funding for stream fencing. This is subject to an eligibility criteria and can potentially fund up to 40 percent of the cost. This funding is reviewed on an annual basis and cannot be guaranteed. If you would like to find out more please contact our freshwater team on Freephone 0508 800 800.

**41. What happens if I don't or can't meet these standards or conditions by the timeframes required?**

Horizons will generally work with Landowners to help rectify any issues. However under Section 1A of the regulations if you are unable to meet the requirements you may be subject to enforcement action.

Each occasion of non-compliance with the regulations is an offence and carries an infringement fee of \$100 per animal (up to a maximum of \$2,000), or \$2,000 per person, or \$4,000 per non-natural person (for example, a company).

If you have any questions around compliance or need assistance please call Horizons consents monitoring team on freephone 0508 800 800.

## Low slope map

**42. 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](mailto:freshwater@mfe.govt.nz).

**43. 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

**44. 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.

## Pest plants and animals

### 45. 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

### 46. 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

### 47. How is the cost of consenting determined?

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.

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 a 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.

### 48. 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 guidelines ([freshwater@mfe.govt.nz](mailto:freshwater@mfe.govt.nz)), and Horizons' One Plan ([One Plan](#)), 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.

### 49. 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

### 50. 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.

### 51. 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.

### 52. 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.*