

Essential Freshwater

Intensive Winter Grazing

New rules around intensive winter grazing come into effect on **1 May 2022** as part of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).

(Regulations 26 to 31)

If you intend to undertake intensive winter grazing, it's important to consider the new rules and whether you'll have to apply for resource consent.

What is intensive winter grazing?

Intensive winter grazing is grazing livestock on an annual forage crop any time between 1 May and 30 September. The NES-F apply to farms comprising five 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.

What is an annual forage crop?

It is defined as a "crop, other than pasture, that is grazed by livestock in the place where it is grown". When forage crop species are grazed for one winter before going into another crop or permanent pasture, especially where the crop is grazed until the ground is bare, this should be considered an annual forage crop. Common forage crops include fodder beet and brassicas like kale or swedes.

Do I need a resource consent for intensive winter grazing?

You might. Intensive winter grazing can only be done without a resource consent if all of the permitted activity conditions in the NES-F are met.

To undertake intensive winter grazing without a resource consent, what conditions must I meet?

You must meet all of the following permitted activity conditions:

Previous use

Land on the farm must have been used for intensive winter grazing between **1 July 2014 and 30 June 2019**.

Maximum area

The area of the farm used for intensive winter grazing must be no greater than 50 hectares or 10% of the area of the farm, whichever is greater. However, the area used for intensive

winter grazing must be no greater than the maximum area used between **1 July 2014 and 30 June 2019, even if the maximum area used previously was less than 50 hectares or 10 degrees of the area of the farm.**

Slope

The mean slope of a paddock must be 10 degrees or less.

Pugging

On a paddock that is used for intensive winter grazing:

- pugging at any one point must be no deeper than 20 centimetres, other than in an area that is within 10 metres of an entrance gate or a fixed water trough; and
- pugging must not cover more than 50 percent of the paddock.

Distance from waterways:

Livestock must be kept at least 5 metres away from the bed of any river (including intermittent rivers and streams), lake, wetland, or drain (including subsurface drainage), regardless of whether there is any water in it at the time.

Replanting timeframe

The land must be replanted as soon as practicable after livestock have grazed the forage crop - but no later than 1 October of the same year.

Information

You must provide the Council with any information reasonably required to monitor compliance with previous use, maximum area, distance from waterways, replanting timeframes or any other requirement.

Farm plans

If a farm has a certified freshwater plan that applies to intensive winter grazing then the intensive winter grazing must be done in accordance with that plan.

What is pugging?

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

How do I calculate the mean slope of a paddock?

There are many methods you can use and further guidance from the Ministry for the Environment will be provided on this shortly.

Note: The Low Slope Land Viewer RM (Stock Exclusion) Regulations 2020 map should NOT be used for the purpose of determining paddock slope for winter grazing. This map was produced in relation to the stock exclusion regulations (and uses the LINZ Primary Parcel Area) which is not a suitable scale for determining slope of a paddock as required under the NES-F.

I can't meet the permitted activity conditions, what happens now?

You will need a resource consent.

This must be granted before you can start grazing, unless you have existing use rights. Depending on your situation you will need to apply for a consent for a restricted discretionary activity or a discretionary activity.

Restricted discretionary activity

To apply for a consent as a restricted discretionary activity, you must meet the following conditions:

1. The land on the farm was used for intensive winter grazing between **1 July 2014 and 30 June 2019; AND**
2. The area of the farm used for intensive winter grazing is no greater than 50 hectares or 10 percent of the area of the farm, whichever is greater. However, the area used for intensive winter grazing must be no greater than the maximum area that was used between **1 July 2014 and 30 June 2019, even if the maximum area used was less than 50 hectares or 10 percent of the area of the farm .**

In this situation, the Council will only consider the following when assessing your application:

- (a) the adverse effects of the activity on ecosystems, freshwater, and water bodies;
- (b) the adverse effects of the activity on the water that affect the ability of people to come into contact with the water safely;
- (c) the adverse effects of the activity on Māori cultural values;
- (d) the susceptibility of the land to erosion, and the extent to which the activity may exacerbate or accelerate losses of sediment and other contaminants to water;
- (e) the timing and appropriateness of the methods (if any) proposed to avoid, remedy, or mitigate the loss of contaminants to water.



Discretionary activity

If you do not meet the conditions as a permitted activity or a restricted discretionary activity then you will need to apply for consent as a discretionary activity. In this case, the Council will consider anything it deems relevant including all of the matters listed above for the restricted discretionary activity.

In addition, the Council can only grant a resource consent if it is satisfied that the intensive winter grazing will not increase:

- (a) contaminant loads in the catchment, compared with the loads as at the close of **2 September 2020**; or
- (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of **2 September 2020**.

A resource consent granted under discretionary activity status will expire before **1 January 2031**.

Do I have existing use rights for intensive winter grazing?

Existing use rights under section 20A of the Resource Management Act apply only where the intensive winter grazing was already an existing activity and where the effects will be the same or similar in character, intensity, and scale.

If that is met you have until **31 October 2021** to lodge an application for consent (if consent is required) and you can continue the activity until a decision is made and any appeals are resolved.

Where it was not an existing activity or the effects will increase in character, intensity or scale, consent must be obtained (where required) before undertaking the activity.

Contact us

If you have any questions on intensive winter grazing or any other aspect of the NES-F please email monitoring@marlborough.govt.nz

Our website at www.marlborough.govt.nz will also be regularly updated with guidance.

