

Intensive winter grazing

Essential Freshwater Regulations

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

NOTE – The updated amendment to the regulations will come into effect from 1 November 2022 and will not impact the 2022 winter grazing season.

What is intensive 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% of the area of the farm.

- **Slope:** The slope of any land used for an annual forage crop that is used for intensive winter grazing must be 10 degrees or less, determined by measuring the slope over any 20m distance of the land.
- **Pugging:** pugging standard: A person using land on a farm for intensive winter grazing in accordance with regulation 26 must take all reasonably practicable steps to minimize adverse effects on freshwater of any pugging that occurs on that land.
- **Distance from waterways:** livestock must be kept at least 5m 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:** Ground cover standard: A person using land on a farm for intensive winter grazing in accordance with regulation 26 must ensure that vegetation is established as ground cover over the whole area of that land as soon as practicable after livestock have finished grazing the land.
- **Critical source area:** 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). On and from 1 May to 30 September of any year, in relation to any critical source area that is within, or adjacent to, any area of land that is used for intensive winter grazing on a farm, (i) the critical source area must not be grazed; and (ii) vegetation must be maintained as ground cover over all of the critical source area; and (iii) maintaining that vegetation must not include any cultivation or harvesting of annual forage crops.



- **Farm plans:** Soon farms will be required to have a certified freshwater farm plan. Note that the roll out of the farm plans required by regulations will be a staged approach and the system is not yet available for implementation.

What is pugging?

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

How do I calculate the slope of a paddock?

There are many methods you can use including downloading an app for your phone such as Clinometer app, as an example.

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% 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% 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 Maori 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; 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 activity then you will need to apply for consent as a discretionary activity.

this case, relevant including all of the matters listed above for the restricted discretionary activity. In addition, Council can only grant a resource consent if it is satisfied that the intensive 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 the 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 use and where the effects will be the same or similar in character, intensity and scale.

If that is met, you have until 1 May 2023 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.

How do I apply for a resource consent?

If you think you may need to apply for a resource consent for your winter grazing, go to: www.wcrc.govt.nz and follow the Essential Freshwater links.

Contact us

If you have any questions on intensive winter grazing, or any other aspect of the NES-F please email: info@wcrc.govt.nz or call our Compliance team on 0508 800 118. Our website www.wcrc.govt.nz will also be regularly updated with guidance.