

RM Explainer – Rules regarding agricultural intensification

1 November 2024

Recent Government Announcement on Freshwater Plans

1. The Resource Management Act 1991 (**RMA**) has recently been amended to delay a council's ability to notify new 'freshwater plans' until the Government amends the National Policy Statement for Freshwater Management (**NPSFM**).
2. The amendment is relevant to Otago, and caused Otago Regional Council (**ORC**) to delay notifying its Proposed Land and Water Regional Plan (**LWRP**), which was expected by the end of October 2024. The recent amendment, which will be effective until the revised NPSFM is introduced (expected next year), means certain farming activities may go unregulated between January 1, 2025, and the date the ORC can notify its LWRP.

Impact of Announcement on Farming Activities

3. The National Environment Standards for Freshwater 2020 (**NESF**) contains temporary standards regarding agricultural intensification. The rules were designed to 'self-destruct' on 1 January 2025 assuming that, in accordance with the NPSFM, regional councils would have notified freshwater plans that give effect to that document. Had that gone to plan, the rules in the NESF would have been revoked on 1 January 2025 and replaced by rules in the relevant freshwater plan. For Otago, that would have been the LWRP.
4. However, with the recent changes, the ORC is restricted from notifying its LWRP until after the new NPSFM is released. This leaves the period between 1 January 2025 and the now unknown date of notification of the LWRP, in which certain activities previously restricted by the NESF will be temporarily unregulated. This affects:
 - (a) Conversions of land on farm to dairy farmland (Reg 18).
 - (b) Use of land as dairy support land (Reg 22).
5. *Previously*, these activities were regulated with reference to a "specified period" (e.g., historical land use). However, starting January 2025, farmers may engage in these activities without the restrictions imposed by NESF regulations, potentially increasing flexibility for land use.

What you need to know:

6. A recent amendment to the RMA has stopped the ORC from notifying its LWRP to allow time for a revised NPSFM to be released next year.
7. From 2025, the current NESF restrictions will not apply to conversions to dairy and dairy support land. However, we anticipate that once the LWRP is notified these activities will again be regulated, likely requiring compliance with new standards and management plans.

Stay Updated

8. We are keeping up to date with the various changes to the RMA, the NPSFM and the notification of the LWRP. If you consider that any of these changes will impact you or your clients, then do not hesitate to contact one of our Resource Management specialists.