HAWKE'S BAY REGIONAL COUNCIL
TE KAUNIHERA Ā-ROHE O TE MATAU-A-MĀUI

7 October 2021

Ministry for the Environment
By email: freshwaterfarmplans@mfe.govt.nz

Dear Sir/Madam,

FRESHWATER REGULATIONS: Freshwater Farm Plans and Stock Exclusion

The Hawke's Bay Regional Council appreciates the opportunity to provide feedback on the government's proposals for Freshwater Farm Plan and Stock Exclusion regulations.

The Council introduced requirements for farm plans through recent plan changes and has several years' experience in implementation of regulatory requirements for farm plans including development of a management framework.

The Council invites MfE officials to visit the Hawke's Bay should they require more details about our experiences with a regulated farm plan regime, our approaches and the challenges and opportunities we are encountering.

The contact person for these submissions is Mary-Anne Baker, mary-a@hbrc.govt.nz or 06 835 9200.

We welcome the opportunity for discussion on the matters raised.

Yours sincerely

Katrina Brunton
POLICY AND REGULATION GROUP MANAGER

Section 1: Overall content and direction

1.1 Introduction

The Hawke's Bay Regional Council (HBRC) supports the use of farm plans as a proactive way of engaging farming communities in improving water management practices and responding flexibly to local conditions to achieve desired environmental outcomes.

HBRC generally supports the proposed freshwater farm plan (FW-FP) regulations, particularly in respect of consistent and standardised approaches to development and management of farm plans. It appreciates that much of the detail is yet to come and is keen to continue working with the Ministry for the Environment (MfE) to further develop the FW-FP framework and associated regulations.

HBRC generally supports the regional sector submission.

HBRC wishes to speak to this submission.

1.2 Background

Since 2015, HBRC's Regional Resource Management Plan has included specific provisions for farm plans for those properties located within the Tukituki Catchment. Currently, these farm plans are being used to inform consenting processes.

In May 2020, a proposed plan change for the Heretaunga Plains catchments was notified and the hearing is now nearing completion. Farm plans are a critical feature of this proposal , but their use is quite different to the Tukituki Catchment requirements. We note that through the hearing process there has been general support for the use of farm plans: submitters focus has been on details, including linkage of these farm plans with industry farm plan programmes.

1.3 Overview statements

1.3.1 FW-FPs and other national direction

The primary production industries are central to the delivery of a range of national environmental policy (including for climate change and emission management, biodiversity and biosecurity) that are currently underway. Consistency with other policy direction will be essential.

There is also a range of other policy and compliance challenges for landowners (including health and safety, animal welfare and market requirements).

The development of this FW-FP framework could be improved by more transparency in the development of the integrated 'whole of farm strategy' as part of the transition to a new farming paradigm and which is alluded to in the discussion document.

The successful use of farm plans in regulation will be a finely balanced exercise. In essence, farm plans are a management tool which are part of a suite of management methods including regulation, incentives, collaborative action etc to meet water quality and other environmental objectives.

The farm planning process can be a useful method for engaging with, encouraging and supporting farmers to make good decisions. It should empower farmers to achieve good environmental outcomes. Complex and overly prescriptive requirements for farm plan content along with frequent regulated process steps risks perverse outcomes.

Feedback Summary 1

Clearly describe how the farm plan could evolve into an integrated 'whole of farm strategy' tool for efficiently delivering a range of national directions at the farm level.

1.3.2 Collective management

The discussion document does not clearly show how collective approaches can be used. Section 6.1 of the discussion document refers to catchment context and co-ordination of resources, but the framework relates to obligations on individual landowners, including in relation to certification and auditing.

We consider that collective management approaches require more thought, given that:

- Costs of the proposed individual farm planning framework are likely to be significant
- catchment objectives might be more efficiently and effectively be met by collective catchment
- a one-to-many management approach reduces administrative and compliance costs.

Feedback Summary 2

Explicitly enable collective management by landowners to meet catchment objectives and clearly allow for greater co-ordination of resources and efficiencies at a catchment scale.

1.3.3 Flexibility versus certainty

The various suggested options in the discussion document illustrate the tension that exists between providing certainty in the proposed regulations: enabling compliance action where necessary and providing for the flexibility and adaptability that are the key benefits of a FW-FP approach to meeting environmental outcomes.

To resolve some of the tension, we suggest the regulations should focus more on the decision-making process steps that must be demonstrated in the preparation of the FW-FP than in providing detailed lists of farming activities or actions to be undertaken.

Guidance material should identify risk activities, management responses, mitigation measures and ecosystem enhancement measures that are expected to be considered.

The on-farm risk can be assessed and appropriate management responses selected for the farm and catchment context. This will support the key strength of a FW-FP approach enabling farm specific risks and solutions to be addressed.

Feedback Summary 3

a) Ensure clarity and integration of the:
   - Regulated outcomes and relationship to regulations
   - Appendix 1 requirements
   - Collection of data/information and reporting templates and management systems

b) Ensure that the FW-FP framework is developed on the basis of a process approach that looks to the 'how' and 'why' a FW-FP is developed rather than lists of requirements in the regulations for content (apart from reference to a regional plan rule or other regulation).

c) Support the FW-FP elements by
   - Clear description of the process steps for preparing a FW-FP
   - Guidance on what good practice would look like in respect of:
     - contaminant risk activities
     - ecosystem health management
   - Clear instruction on how to assess risk at a property scale within any given catchment context.

1.3.4 Costs

Regional councils are incurring significant costs preparing the catchment context and values information required under the NPS Freshwater Management. We expect further costs for reporting on FW-FPs (refer to the comments below).

We note that the overall framework will impose significant compliance costs on landowners as each step in the process appears to require professional input and will likely be onerous for both small and large operators. These administrative costs will be in addition to any costs of mitigation or change to manage risks or make ecosystem improvements.

The framework imposes costs at each of the following steps: many are imposed at the property scale, including:

- Preparation of the FW-FP
- Certification of the plan
- Recertification every 3 years
- Reviews, amendments (frequency as necessary)
- Auditing (initially at 18 months)
- Quality assurance checks (frequency as necessary
- Recording and reporting implementation progress
- Information management by councils (receipt of certified plans and audit results, appointment of certifiers/auditors)
- Reporting by councils
- Enforcement/compliance by councils.

The property scale FW-FP costs are comparable to the cost of the resource consent process: consent conditions and timeframes enable assessment of impacts on farming businesses and providing context for assessing compliance costs.

We suggest a 'tiered' or risk matrix approach for managing costs and resource limitations at all of these process steps (See also Qs10, 13, 24 and 36); this could also assist in determining charges and levels of service according to catchment context, risk, size and complexity.

This tiered or risk-based approach could be applied at all stages of the FW-FP process and could be based on:

- Size of property
- Nature and risks of activities carried out
- How dynamic the farm system is
- Climate and biophysical characteristics of the farm
- Catchment context and risk to water quality.

Feedback Summary 4

a) Reduce complexity of the framework to reduce on-farm costs
b) Consider a tiered or risk matrix approach that informs development of templates, schedules of charges and levels of service.

1.3.5 Information management

The information management systems and reporting and recording processes are not yet clear but their importance cannot be underestimated in enabling successful development and delivery of the FW-FP system.

We strongly support national development of the information management systems, and which includes input and development by all councils.

The Integrated National Farm Data Platform (INFDP) project appears to be developing at a slower rate than what is being envisaged for a successful national FW-FP framework. The reality of current data systems, including for councils as well as industry programmes, does not appear to align with the expectations for a consistent and integrated national framework.

We encourage close links between the INFDP project currently underway and the proposed FW-FP requirements with respect to any:

- Appendix 1 requirements for the FW-FP base information
- Information required for reporting to the council by FW-FP holders as well as public reporting by the council
- Review.

Feedback Summary 5

a) The regulated aspects of the FW-FP need to be clearly linked to the information collection and reporting aspects. The process for collection of required information as well as the details of the information which is subsequently reported by Councils need to be clearly specified.
b) Links between regulation development and the Integrated National Farm Data Platform (INFDP) need to be strong and transparent.
c) Ensure information management systems and platforms are developed in advance of the regulations.

Section 2 Discussion document questions

2.1 Regional council planning processes

1. *What other information should we consider about how the freshwater farm plan system fits with regional council planning processes, and why?*

The linkage between the regulatory documents (regional policy statement, regional plan, NPSFM) and freshwater farm plans content is unclear on a number of fronts:

- ***Links to Regional Freshwater Plan and Action Plan processes and content.***

Councils will need to work alongside tangata whenua, community, landowners and industry stakeholders to understand values, desired ecosystem and water quality outcomes/objectives, as well as understanding possible solutions and setting resource limits, to give effect to the NPSFM.

Where regional freshwater plans have been developed there is much more clarity and certainty about community and Māori values and expected outcomes, including in relation to objectives for water quality. This will provide the necessary context for landowners in the relevant catchment and will help inform content of farm plans. The regional plan process will also have developed targeted resource limits and set regulatory controls where water quality improvements are required.

In catchments where there is no regional freshwater plan, there may be catchment data available but the tāngata whenua and catchment communities have not necessarily been involved in discussion about catchment values and objectives to give effect to Te Mana o Te Wai, such as in Hawke's Bay.

In this situation, the 'catchment context' drivers for farmer actions can, in the short term, only be informed by the NPSFM 2020 and the values and bottom lines in the NOF. Time and resources, including for Tāngata Whenua, are required to develop this information and context. The transition provisions should allow for this work to be undertaken over the next few years.

Further, in the absence of a regional freshwater plan, or even an action plan, there will be uncertainty about desired outcomes at a catchment scale and managing effects at a property scale will lack the necessary catchment context.

Note that HBRC has already identified concerns (refer section 1.3.4) about resources required for regional councils to meet timeframes for giving effect to the NPSFM.

The transition regime for implementing FWFPs should therefore relate to programmes for development of regional freshwater plans.

Feedback Summary 6

The FW-FP transition process should take into account the process amd timeframes for development of freshwater plans with local communities and tāngata whenua, which will, in time, provide context and any additional regulation, fitting FW-FPs within the suite of methods to deliver on the new Freshwater Plans and their associated Action Plans.

- ***Stringency***

The discussion document suggests that approved farm plans may include actions that are more stringent than any regional rule although there are no criteria or guidance to show how this higher level of performance is to be justified and imposed (refer to pages 12 and 26). HBRC notes that even in a degraded catchment, the impacts of diffuse farm discharges on local water quality are difficult to assign to an individual property.

The farm audit is required to identify where actions, including those that are more stringent, have not been actioned and report to the council accordingly (page 39). It must be legally clear if enforcement action can be taken with regard to such stricter actions:

- There is no mechanism for farmers to challenge the lawfulness and necessity of such stricter actions at the time the farm plan is being prepared
- There is no clear provision in the RMA to enable enforcement of this type of stringency
- This raises the question of whether it is possible to have enforceable more stringent actions, or whether such actions are optional and therefore non-enforceable. If the latter, in those catchments where water quality is degraded, regional plan provisions are likely the best process to ensure that all contributing to the problem are also fairly contributing to achieving the desired outcomes.
- The likelihood of audit or compliance action if mitigation measures are not adopted in specified timeframes may result in setting property goals at a lower level.

Feedback Summary 7

a) Ensure that it is clear whether or not measures can be enforced if they are more stringent than performance measures in regional rules or national regulations, despite agreement by farmers in their FW-FP.

b) Address whether or not ‘good practice’ can be enforced.

2.2 Role of tāngata whenua in the freshwater farm plan system

Q2. What information should we consider regarding the role of tāngata whenua in the freshwater farm plan system?

HBRC supports the regional sector submission.

2.3 Industry assurance programmes and other farm plan initiatives

Q3. What other information should we consider regarding the proposed role for industry assurance programmes and other farm plan initiatives in the freshwater farm plan system?

Q4. What are the likely impacts and cost implications?

The more complex and costly the framework, the less likelihood of success. We support building on both existing council and industry systems; this supports a more efficient approach that recognises the existing investments already made into farm planning by councils, farmers and industry groups.

However, there may be cost implications with transitioning from existing systems which may be offset by development of a new 'from scratch' framework.

Careful attention to the transitional measures is required, especially in relation to timeframes, performance standards and integration across different industry and council programmes. Inter-operability between different information systems needs to be considered as part of the information management framework.

HBRC supports the collective development of the framework that enables councils and primary industries to pool resources and develop consistent approaches as it is likely to be more cost effective than development of solutions at a regional scale.

Features that enable successful implementation of the FW-FP framework include;

- Targeted and efficient data collection, with input controls to protect information and consistent and integrated data recording and reporting systems
- Farmer buy in
- Attention to commercial information and privacy issues
- Integration across agency and organisation requirements
- No duplication - including processes or reporting requirements

Industry programmes are industry specific, reflecting need for a modular systems approach.

The certification process and national assurance checks will assist in maintaining required levels of service. We note that much of the farm plan delivery is currently by industry and that to remove them from the prospective pool of FW-FP certifiers will significantly impact on available resources.

In our experience in the Tukituki Catchment, we have found varying levels of service and charges developed in response to new requirements for farm plans. There is a need to protect farmers both in terms of costs charged and level of service delivered.

We consider that guidance and especially templates and schedules of charges for the various components of FW-FPs will assist in assessing reasonable costs and levels of service.

Feedback Summary 8

a) Support acknowledging investments already made into farm plan frameworks by councils and industry and ensuring transition arrangements reflect this.
b) Support building a framework that enables national consistency and reduces development costs.
c) The framework must assist farmers in making good environmental decisions rather than impose costly process and compliance procedures.
d) Industry programmes will likely need time to transition to meet environmental management requirements contained in FW-FPs
e) Interoperability of information management systems needs to be a key consideration
f) Enable existing farm plan providers from fertiliser industry groups to transition to becoming certifiers.

2.4 Transition to the new system

Q5. Do you agree with our proposed approach for transitioning to a fully implemented system? If not, why not?

HBRC supports the regional sector submission.

Councils should have a role in deciding the priority for FW-FP requirements on a catchment by catchment basis according to risk and existing water quality, ecosystem health issues, and whether or not there are existing operative farm plan provisions. Such prioritisation:

- Enables staging of each council's freshwater plan development programme by 2024
- Recognises the finite professional capacity to undertake this work across the country
- Ensures the FW-FPs are developed in due course within the context of agreed environmental outcomes for the catchment.

Transitional arrangements should:

- Allow for regional freshwater plans to be developed before FW-FPs are required
- If FW-FPs are developed in advance of the freshwater plan, recognise that further changes may be needed to those FW-FPs to give effect to the new freshwater plan and that farmers may be reluctant to engage in a FW-FP system that will be amended or subject to different requirements over short time
- Where farm plans are currently required, defer new FW-FP requirements until NPSFM-compliant regional plan provisions are in place
- Recognise that sufficient time and resources are needed for developing new national certifier and auditor programme
- Recognise the importance of building consistent information management and reporting processes and templates in advance of or alongside the regulations.

HBRC recommends that a further option is developed to that build FW-FP content in a clearly defined and more targeted modular fashion. This could:

- Start with key risk activities (connected to regulatory requirements such as Intensive Winter Grazing)
- Identify if a FW-FP can exempt a farmer from a regulation or regional rule (if this is intended)
- Manage FW-FP content and regulated outcomes according to whether or not there is a NPSFM freshwater plan.
    - Where there is no plan, any relevant national regulations can be included as per the modular approach
    - Industry programmes could continue to roll out with the proviso that regional plans may inform additional actions where greater investment into mitigation is necessary.
    - Connect to other environmental issues such as for emissions management for climate change and biodiversity and thus more clearly connect to the wider Integrated Farm Planning concept.

This wider framework view is missing from the discussion document.

Feedback Summary 9

a) More detail is required about the transition provisions, particularly in relation to freshwater plan development and other national policy

b) Provide a role to Councils in deciding the priority for FW-FP requirements catchment risk and existing water quality or ecosystem health issues

c) Consider a modular approach to the development of FW-FP content

d) Ensure all elements of the FW-FP framework are accounted for in the transition phases, including information management

e) Consider building farm plan requirements on a modular basis

Section 3 Key Elements of Freshwater Farm Plans

3.1 Regulated outcomes

Q6. Do you agree with the preferred option for how regulated outcomes could be described in regulations? If not, what is your preference?

Q7. What are the likely impacts and cost implications?

The connection between farm plans and achievement of catchment environmental outcomes is a critical part of this proposal.

HBRC supports option 1 as the preferred approach but notes that the discussion highlights the difficulty in specifying enforceable measures through a regulatory approach to FW-FPs.

Option 2 matters may be better included in guidance and training for those preparing farm plans. However, we would need to provide input to any supporting guidance documentation for the FW-FP process to be satisfied that FW-FPS will work within the wider catchment regulatory context.

The proposed approach (Option 1) is more practical in achieving flexible farm plans that describe and address on-farm issues and are concise enough to be usable for farmers. This less prescriptive approach puts more emphasis on process steps and the required skills and experience of the people preparing the plans and the certifiers. It also highlights the need for guidance on decision making about necessary mitigation measures/practices.

The term ‘regulated outcome’ is difficult to understand and also to comment on in relation to how the regulations are being developed without further detail. Refer also to the comments

under section 2.1 in relation to understanding catchment outcomes through a freshwater plan process and what a catchment context approach may mean in practice.

This aspect of the proposal requires further development.

Feedback Summary 10

a) Draft the regulated outcomes in terms of how the FW-FP is to be developed i.e. the process for identifying risks and opportunities rather than checklists

b) Do not include performance standards for activities as these are the function of regional plan rules and regulation

c) Allow for freshwater plans to be developed before requiring FW-FPs to be certified and put into effect

d) Provide further guidance on the nature and scale of mitigation measures and farm practices, particularly where SoE data is not relevant to the farm property or property contributions to a catchment state are not clear

e) Consider specifying outcomes required in a FW-FP to reduce risk of contaminant loss to water and to improve ecosystem health, together with guidance to make such assessments

f) Provide guidance to determine what 'good ecosystem health practices' look like at a property scale

g) Do not require resource consented activities to be subject to additional approval or assessment requirements through the FW-FP process

h) Ensure councils' enforcement and compliance roles are clear in relation to certification and audit requirements of the FW-FP.

3.2 Regulated 'base information'

Q8. Does the material in Appendix 1 cover all the base information that should be mandatory for inclusion in freshwater farm plans? If not, what else should be considered and why?

Q9. What are the likely impacts and cost implications?

The base information requirements should be developed alongside the national information management and reporting systems and templates, as well as what is required by regulation

to be included in the Freshwater Farm Plan. It needs to be clear what is subject to enforcement and what is optional.

The following might also be considered;

- Name and contact details for farm plan provider (if this is not the farmer)
- Specify scale at which the farm maps must be provided
- Specify minimum geospatially required data as part of FW-FP template,
- Digital provisions of data through specified templates and systems
- Separate requirements for the fixed physical data compared to the information that is relevant to farm management and risk assessment

The requirement for FW-FP to include external information such as water protection zones, significant biodiversity, mahinga kai and other national and community values will increase costs and likely lead to confusion about what is required without further support.

Costs could be reduced and the process made more efficient if Councils are required to provide specified base data supported by the development of one templated system. Councils need time to be able to package up this information. It should be clear whether all this base level information is to be required in first generation plans.

Guidance information should also be provided at both national and regional level about local sources of information including LUC and detailed soil maps (S-Maps), LIDAR information, models, (farm and catchment) etc.

It should be clear what information is to be collated by the landowner and what is to be made available by the council.

Collating the information and providing it in formats that align with FW-FP formats will require Council resources and time. However, having this information publicly accessible in a standard format will reduce costs for landowners.

Feedback Summary 11

a) Consider base information requirements in relation to;
   i. The scale of farm maps
   ii. Minimum geospatially required data as part of FW-FP template,
   iii. Digital provisions of data through specified templates and systems
b) Separate the base information requirements for fixed physical data from information relevant to management and risk assessment – for example in relation to nitrogen management (which is not an issue for all catchments/farms).
c) Ensure councils provide catchment context and values information (including for mahinga kai, indigenous fish habitat, drinking water source protection areas etc) to assist development of FWFPs at a property scale and in a format consistent with national information templates for FWFPs.
d) Maintain close relationship with the Integrated National Farm Data Platform (INFDP) project including for development of templated (digital) systems for use by both:
   i. Councils to provide catchment context and base information and eventual reporting,
   ii. Farm plan developers so that information requirements and reporting are properly supported by good tools and requirements are clear and consistent.

3.3 Risk/impact assessment

Q10. Do you agree with our preferred option? If not, what is your preference?

Q11. What information should be included in guidance to inform the risk/impact assessment, and why.

Q12. What are the likely costs implications?

As above, we again note the difficulties associated with the scale of the monitoring data and understanding level of information about the individual contribution of a single property to the catchment state. This may pose challenges to certifiers in determining what is 'reasonable' or appropriate for any particular property without some further guidance. For example this is particularly relevant in relation to risk of sediment loss from (existing and potential future) erosion and determining a 'reasonable' level of mitigation.

Feedback Summary 12

a) HBRC supports the regional sector submission.

b) We also support a risk assessment approach as an integral part of each FW-FP itself as well as for the overall FW-FP framework.

c) Develop risk assessment procedures, including liability issues for those providing risk information and certifiers/auditors

d) Consider a tiered approach and/or risk matrix that is based on overall risk factors and catchment context across the FW-FP framework. This will assist with;

i. Managing costs to farmers

ii. Prioritising effort

iii. Determining levels of service by professionals

3.4 Identifying actions

Q13. Do you agree with our preferred option? If not, what is your preference?

Q14. What are the costs implications?

HBRC agrees with ensuring flexibility that includes understanding the catchment context, risks at a farm scale and outcomes focussed, evidence-based solutions which also account for the farm production system and transition to any new practice or procedure changes. Actions must be reasonable and fair for the farm and as compared to other farms in the catchment.

HBRC is concerned at the scope for the certifier to determine mitigation measures and timeframes ('reasonable' appears to be the only qualifier for timeframes and measures are at their discretion and professional judgement pages 26/28). We suggest certifiers are be guided in decisions on appropriateness and reasonableness by what is already described as industry good practice and any performance standards described in plan rules and regulations.

For some catchments, good FW-FPs will be insufficient to achieve environmental outcomes. Regulation, for example controlling intensification or change of land use and catchment works programmes may be required. This would be set out in freshwater plans and catchment action plans.

An individual farm operator should not be held accountable for achieving catchment wide environmental outcomes (unless farms are large or catchments are small).

In selecting appropriate actions for a farm:

- Choosing from a prescribed list of actions for high-risk activities without particular regard to farm circumstances may lead to a less effective outcome. HBRC can provide examples where this has occurred)
- To assist with auditing and enforcement, it should be clear which actions are:
    - Mandatory through regulation
    - Industry good practice measures
    - Voluntary mitigation or enhancement measures

There are a range of possible impacts and cost implications:

- The skills to navigate guidance, minimum regulatory and good practice standards, assessment of stringency against national and regional regulations etc is likely to be beyond the ability and time availability of most farmers, requiring this work is contracted.
- The complexity and regulatory process steps may mean there is less farmer engagement in the preparation and implementation of a FW-FP.
- All options rely on highly skilled certifiers with multi-disciplinary skillsets (expensive if a high quality is demanded)
- There will be costs involved in building the capability of the pool of farm plan certifier/providers, developing and administering approval accreditation and auditing to maintain standards and organising programmes.

Feedback Summary 13

a) Develop clear and comprehensive criteria for any interventions identified by certifiers such as suitability, evidence based, cost effectiveness in relation to expected benefits etc to guide both certifiers and landowners in what is expected. These will need to account for farm specific opportunities and constraints.

b) Ensure expectations and process for assessing reasonableness and effectiveness of a FW-FP actions are clear

c) Support a farm focussed approach that enables flexibility and which:

   i. Understands the catchment context

   ii. Understanding risks at a farm scale

   iii. Is outcomes focussed

   iv. Uses evidence based solutions

   v. Accounts for the farm production system

   vi. Allows suitable transition to any new practice or procedure changes

   vii. Does not hold the individual property owner to account for the overall catchment state

d) Ensure the FW-FP framework enables and encourages farmer involvement in the preparation and implementation of FW-FPs

e) Reconsider requirements for FW-FPs where freshwater plans are in place and where regional plans are yet to be developed.

f) Clarify enforcement powers and opportunities in respect of 'more stringent' measures.

g) Avoid requiring mitigation investment where it is more likely that the most efficient and long term solution is land use change

3.5 Implementation timeframes

Q15. Do you agree with our preferred approach? If not, what is your preference?

HBRC agrees with the concept of reasonableness and would add fairness, especially in relation to expected industry standards and relativity between farms. We support development of guidance or criteria on which to base 'reasonable' decisions.

Implementation timeframes should also recognise:

- External influences beyond the control of the farm operator (e.g. weather events, earthquakes, personal (family) circumstances, market changes etc)
- Lag times between when mitigation measures are taken and impact on receiving water quality

Feedback Summary 14

a) Adopt an approach that is based on reasonableness but seek addition of 'fairness' in relation to what is an expected industry standard and ensures relativity between farms (in the same catchment context).
b) Allow for outside factors to change reasonable timeframes from time to time (including weather events, personal or family circumstances, market changes etc)

3.6 Certifier accreditation and appointment

Q16. Do you agree with our preferred option? If not, what is your preference?

Q17. What are the cost implications?

HBRC supports the regional sector submission.

Certification should take a modular approach that allows for certifiers to be judged competent in defined aspects of farm plan certification.

We are concerned that the costs and time to establish a professional body and gain accreditation may not have been adequately factored into this process.

Regional appointment for both certifiers and auditors is suggested, but this should be supported by national criteria for how appointments are to be made, including requirements for local knowledge on an on-going basis. It would be inefficient for each council to develop its own appointment criteria.

Decommissioning certifiers and auditors at a regional level is also suggested, and this would also need to be supported by criteria or process that is nationally consistent. See also Q 32.

Feedback Summary 15

a) Consider adopting a modular approach that reflects certifier expertise
b) Regional appointment and de-commissioning should be possible, based on consistent criteria (we can provide more detail about this if required)

3.7 Role of certifier

Q18. *Do you agree with the assumptions for certifiers to walk the farm and call outside experts ? If not, why not?*

Q19. Do you agree with the preferred option

Q20. Should there be a limit to the number of times certifier re-certifies a FWFM?

Q21. What are likely impacts and cost implications?

HBRC supports the regional sector submission.

The discussion document mentions certifiers also being able to prepare the plan – we would support that as a solution for enabling efficiencies and cost reductions in the FW-FP framework, as well as contributing to farmer engagement.

Feedback Summary 16

a) Allow certifiers to also prepare a FW-FP as this enables efficiencies and contributes to farmer engagement.

3.8 Engaging and paying for a certifier

Q22. Do you agree with our preferred approach? If not, what is your preference?

Q23. What are the likely impacts and cost implications of the preferred approach?

HBRC agrees that FW-FP preparation and certification costs should be met by the farmer. However, we note the comprehensive framework proposed in the discussion document is likely to result in significant costs to farmers.

The development of a nationally agreed schedule of costs for different parts of the FW-FP framework can assist in providing transparency and serve to manage expectations of the various parties including in farm plan preparation, certifiers and auditors.

In the Tukituki Farm Plan process some farm plan providers cut costs and produced lower quality farm plans. Other suppliers provided higher quality plans, but at a higher cost.

Common regulatory timeframes have the effect of creating bottlenecks for professional services and compliance issues for farmers.

Feedback Summary 17

a) FW-FP costs should be met by the farmer
b) Reduce the costs of the suggested framework by reducing complexity and by building on existing industry and Council programmes
c) Adopt schedules of charges and templates to assist in standardising costs and managing expectations about quality and levels of service.
d) Set regulatory timeframes with care to avoid creating bottlenecks.

3.9 Review and re-certification and renewals

Q24. Do you agree with our preferred option? If not, what is your preference?

Q25. What are the likely impacts and cost implications of the preferred approach?

Q26. *Do you agree with the proposed categories and triggers for new freshwater farm plans, addendums, and amendments? If not, what is your preference*?

Q27. What are the likely impacts and cost implications of the preferred approach?

HBRC supports the use of timeframes for FW-FP preparation, audit and review which are appropriate to the risk of the farming activity and catchment context.

While short timeframes keep the FW-FP at the forefront of farmer decision-making, this will increase costs. However, HBRC is concerned that a 5-yearly cycle may result in farm operators delaying taking necessary actions.

We have made comments elsewhere in this submission about tiered or risk matrix approaches as a means for addressing costs and resourcing. (see Qs 10, 13, and 36 in particular).

We consider that requirements for FW-FPs and recertification should be targeted according to risk and council priorities reflecting catchment state. This enables resources and effort to be targeted. There is debate as to whether the default should be short or long, but a risk based approach enables requirements to be targeted.

A range of risks can be accounted for in establishing re-certification timeframes including:

- size of property
- nature, scale and risks of activities carried out
- how dynamic the farm system is (how frequently activities or farm systems change)

- catchment context and risk to water quality
- degree of automation of farm information management systems

We note the difficulties associated with defining triggers for land use change and understanding what a major change in the farming system would mean.

Guidance material would be useful.

Feedback Summary 18

a) Enable re-certification to be established according to a tiered or risk matrix approach with lower risk farms, activities or locations, requiring less frequent re-certification.
b) Provide guidance about what a land use change means.

3.10 Dispute resolution

Q28. *Do you agree with our preferred approach? If not, what is your preference?*

Q29. What are the likely impacts and cost implications of the preferred approach?

HBRC supports the regional sector submission.

Disputes should be heard and managed locally but managed through a national system to help manage timeframes.

Disputes may arise in relation to all steps of the FW-FP and disputes processes should account for this.

The council is likely to have relevant information about catchment context and environmental pathways and processes that will be relevant to understanding a dispute. Council input should be included in a dispute process.

This also ensures any future compliance or enforcement action that may become necessary is not compromised.

Feedback Summary 19

a) Establish a national disputes resolution system which enables local resolution of disputes
b) Ensure the disputes process addresses all aspects of the FW-FP process
c) Involve regional councils in resolving disputes

3.11 Complaints process

Q30. Do you agree with our preferred approach? If not, what is your preference?

Q31. What are the likely impacts and cost implications of the preferred approach?

Feedback Summary 20

HBRC agrees with the regional sector submission.

3.12 Removal of accreditation

Q32. *Do you agree with our preferred approach? If not, what is your preference*?

Q33. What are the likely impacts and cost implications of the preferred approach?

Feedback Summary 21

a) HBRC supports the regional sector submission.

b) Please note our comments under Q 16/17 regarding consistent criteria for regional appointing and removing certifiers and auditors.

3.13 Accreditation and appointment of auditors

Q34. *Do you agree with our preferred option? If not, what is your preference and why*?

Q35. What are the likely impacts and cost implications of the preferred approach?

HBRC supports the regional sector submission

Further detail is needed to:

- Address the transition from existing industry scheme auditing
- Understand the auditor role (ref page 35) and its relationship with the council's enforcement role and the provisions of RMA Part 9A.

Some of the risks and implications of the proposal include:

- A person cannot certify and audit the same FW-FP; they could audit other FW-FPs
- Oversimplification of the auditor's role to box ticking for compliance rather than assessing the effectiveness of action taken
- The potentially narrow role for the auditor means greater emphasis on the certifier role and competence.
- Risks for some industry audit schemes which may be targeted to only one part of the farm operation leading to more than one farm audit to cover all parts of the farm

Feedback Summary 22

Provide clarity for the auditor role, including ensuring "chain of evidence" requirements can be met by Councils if enforcement action is required.

3.14 Audit frequency

Q36. *Do you agree with our proposed approach for determining audit frequency? If not, what is your preference and why?*

Q37. What are the likely impacts and cost implications of the preferred approach?

HBRC supports the regional sector submission.

In addition, we suggest a risk based approach to determine order of auditing and that this should be aligned with suggestions for certification and re-certification (see Q24/25) that accounts for risk, priority and catchment context established by the council.

We disagree with 18 months as standard:

- This is overkill for smaller and less risky farm systems,
- We doubt there would be capacity for the 18 month audit and that some industry programme may have different timeframes for audits that should be accounted for
- The system should be set up to avoid boom/bust cycles driven by unrealistic timeframes.

A link between certification and auditing will enable risk and regulatory action frequencies to be aligned according to whether implementation is underway.

Feedback Summary 23

a) Link certification and auditing frequencies according to risk and level of implementation of FW-FP

b) Enable performance-based auditing frequency.

3.15 Engaging and paying for an auditor

Q38. Do you agree with our proposed approach? If not, what is your preference and why?

Q39. What are the likely impacts and cost implications of the preferred approach/?

There needs to be clear national guidance around exactly what an audit includes and could be supported by schedules of charges for this to avoid:

- Risk of over escalated costs for farmers.

- Farmers being failed for not completing certification and auditing where timeframes are outside of their control.

Feedback Summary 24

Set a schedules of charges and templates for audit reports to help manage costs and levels of service.

Section 4 Quality Assurance of FW-FPs

4.1 Quality assurance

Q40. Do you think quality assurance should be undertaken by a national body, with checks undertaken regionally?

Q41. What should the triggers be for quality assurance checks?

Q42. What are the likely impacts and cost implications?

HBRC supports the regional sector submission.

Transparency and clarity is required in relation to quality assurance, complaints and dispute processes so that all parties are clear about what is expected.

Section 5 Enforcement Mechanisms

5.1 Enforcement mechanisms

Q43. *Are the proposed offences and infringement fees appropriate? If not, what would be appropriate*?

HBRC supports the regional sector submission.

We note that there is no offence in the continued failing of an audit, and this appears to assume the cost and frequency of re-assessment is sufficient to drive behaviour to achieving compliance.

This council adopts a 4 E's enforcement policy approach which enables a tiered and targeted approach to an appropriate action by Council officers. It allows for engagement, education, enabling and enforcement steps in a staged process.

The discussion document proposal effectively jumps councils straight in at enforcement.

There is no clear role for councils in FW-FP preparation, certification and auditing that enable the council to support the farmer to become compliant.

We note a grey area in relation to decisions about degrees of completion of implementation actions.

Feedback Summary 25

Enable regional councils to make enforcement decisions that reflect a more staged process, based on the circumstances of the offending.

Section 6 Implementation options

6.1 Implementation

Q44. *Do you agree with our preferred option? If not, what is your preference and why?*

Q45. Should we explore whether it should be possible for farmers and growers to opt into the freshwater farm plan system?

Q46. What are the likely impacts and cost implications of the preferred approach?

HBRC supports the regional sector submission.

Please note our comments under Q1 and Q5 in relation to transition provisions.

We agree with a priority catchment approach that is determined in consultation with councils and further note:

- Staging of implementation on a sub-catchment basis will also allow for a sustainable workflow for farm plan providers/certifiers which would support the development of stable businesses around this.
- It will also allow councils to have clarity on which people were their target clients to approach in any particular time period.
- Makes more sense for landowners within a catchment to all require farm plans at the same time, this could help address catchment scale issues more consistently and complement and enable collective catchment management approaches.
- It enables a more focussed and efficient community engagement process to be adopted by Councils in advance of the FW-FP requirements.
- Enables greater certainty around how regional rules and national regulation (e.g. intensive winter grazing) applies in a particular catchment context.

While farmers could opt in early, it risks fracturing focus for catchments and farm certifiers and stretches already scarce resources.

There is uncertainty about whether a FW-FP means specified regulations such as those for Intensive Winter Grazing don't necessarily apply.

The HBRC experience is that there will be low demand for FW-FPs outside the regulated areas.

- There are not many 'carrots' on offer to draw landowners into the 'first generation' plans except where a resource consent would otherwise be required for a regulated risk activity.
- Farmers are likely to avoid having to re-do plans as new regulations, information about catchment context becomes available and freshwater plans are developed.

6.2 Understanding catchment values and context

Q47. Should we consider any other ways to support farmers, growers and certifiers to understand and incorporate catchment values and context?

HBRC supports the regional sector submission.

Please refer to our comments under Q1 and 6 about Councils providing base information and context

Question 47 is similar to Question 1: freshwater farm plans need to be prepared in light of the visions, outcomes and objectives, values, attributes, measures, targets and limits for the catchment.

We would expect that plan implementation including Catchment Action Plans will look to freshwater farm plans as one of the actions available to achieve those visions, outcomes and objectives, alongside a range of other regulatory and non-regulatory methods.

Accordingly, information from those freshwater farm plans needs to inform the evaluation of the effectiveness of the on-farm mitigations towards achieving the original visions, outcomes and objectives for the catchment as a whole.

It would be very useful to identify what information is necessary to evaluate the success of this approach at the beginning, so that freshwater farm plans can efficiently capture data to inform that catchment monitoring and evaluation work (a regional council function).

We expect the Councils will determine the size of the catchment forming the basis of the catchment context information, but this needs to be clarified.

Feedback Summary 26

a) Develop templates to ensure base information held by Councils is consistently available to support the FW-FP format.

b) Ensure farmers know what information they need to collect to inform catchment evaluation work by regional councils.

Section 7 Reporting and Review

7.1 Data collection

Q48. What are your thoughts on the proposed indicator areas for evaluating the difference the freshwater farm planning system is making to water quality and ecosystem health?

Q49. What other information should we consider, and why?

Q50. What are the likely impacts and cost implications of this approach?

HBRC supports the regional sector submission.

The importance of data collection and management and the contribution it makes to the success of the FW-FP framework should not be underestimated.

We agree with the broad areas outlined although further detail is required. Farm data will be necessary to effectively evaluate the cumulative effectiveness of farm plans in a catchment (refer to Question 47 above).

There is a link between the questions asked here and the detail suggested in Appendix 1. See also responses in respect of Q8 and in respect of the relationships between the FW-FP (regulated) content, reporting on measures and mitigations and council reporting. Appendix 1 should be developed with the information requirements in mind – they should not be separate exercises.

Data standards and resolving data inter-operability issues between different industry and other data repositories are also critical components to success. We need to assess whether it is possible to collect and report data in a meaningful and cost-effective way. Refer also to Question 4.

While recognising that existing industry schemes are embedded in other processes and agreements such as trade deals, there are sunk costs in the multiplicity of schemes and platforms that exist. Collectively investing in one future data repository and platform should be

considered as an option for the future even if that involves a transition. A better product is likely to result from pooled talent and resources. A standard template and development tool for individual farm plans could also be developed.

The link between farm scale mitigation and what it means for improved water quality at a catchment scale will not always be supported by data and aggregation of data at a catchment scale is a key management component.

We repeat the need to ensure that catchment environmental data and farm level data is captured in a suitable form for SOE and catchment scale research, including land science research.

Feedback Summary 27

a) Develop templates in information management systems to enable efficiency and consistency in reporting at property as well as regional and national scales

b) Develop reporting requirements to Councils alongside information requirements within the FW-FP

7.2 Reporting publicly

Q51. *Do you agree with our preferred approach? If not, what is your preference and why*?

Q52. Is there any information in a freshwater farm plan that you would not want to be shared publicly? For what reason?

HBRC supports the regional sector submission.

We agree with the areas outlined for reporting. We note again the link between this reporting and the content requirements for FW-FPs and the need for data and information management templates and systems that allow for this to happen.

We caution evaluation requirements based on effectiveness of a FW-FP in achieving water quality outcomes. The impact of FW-FPs should be aggregated when considering effect on water quality and ecosystem health.

Feedback Summary 28

a) Ensure there are clear links between information requirements for FW-FPs and the reporting (and evaluation) requirements.