

IrrigationNZ Submission on Freshwater Farm Plan Regulations Discussion Document

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Ministry for the Environment /Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

Submitted online at: freshwaterfarmplans@mfe.govt.nz

Please, find below the IrrigationNZ submission to the Ministry for the Environment (MfE) on the Freshwater Farm Plan Regulations discussion document. We would appreciate the opportunity to discuss the responses in our submission or to provide additional information.

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About IrrigationNZ

Irrigation New Zealand (IrrigationNZ) is the national representative body endorsed to represent over 3,800 members, including irrigation schemes, individual irrigators, and the irrigation service sector across all regions of New Zealand.

Our irrigator members include a wide range of farmers and growers – sheep and beef, dairy and cropping farmers, horticulturalists, winegrowers, as well as sports and recreational facilities and councils. We also represent over 120 irrigation service industry members – manufacturers, distributors, irrigation design and install companies, and irrigation decision support services for both freshwater and effluent irrigation.

We are a voluntary-membership, not-for-profit organisation whose mission is to create an environment for the responsible use of water for food and fibre production for local and international consumers and to sustain the wellbeing of communities.

As an organisation we actively take a technical leadership role in promoting best practice irrigation and carry out a range of training and education activities associated with freshwater management. Over the last five years we have trained over 3,000 irrigators on different aspects of irrigation best practice to improve water use efficiency (lowering consumption) and better manage environmental effects (improved soil moisture management).

IrrigationNZ members share many of the same goals as other New Zealanders:

- Reduce their environmental footprints and see improvements in the health of the natural environment,
- Contribute to the wellbeing of their communities, and
- Provide for a sustainable future for New Zealand.

IrrigationNZ General Statements of Principles

- IrrigationNZ has specific expert knowledge built on our experience and wide collaboration with government agencies, regional councils, and freshwater end users. This knowledge enables us to present soundly based expectations and recommendations on how the regulations can be implemented to meet requirements for freshwater management presented in the National Policy Statement for Freshwater (NPS-FM).
- IrrigationNZ supports the intention of the proposed Freshwater Farm Plan (FW-FP) regulations, processes and supporting guidance.
- While we support the intention of the proposed regulations – material improvements to freshwater – we are concerned that highly prescriptive regulation may restrict changes that will need to happen in the future arising from innovation and externalities.
- We contemplate in our submission how to make the regulations workable in terms of getting buy-in (i.e., people accepting and using FW-FPs as a tool) rather than seeing the regulations as another compliance tick-box exercise.

Apart from the detailed answers provided in the document, here we want to highlight five key points:

- 1) Certainty for the farming community will come from nationally consistent regulations but with flexibility in some regions to adopt and adapt well established locally focused farm planning processes.
- 2) Timing has to reflect that different regions and farming communities are at different stages of dealing with farm environmental plans. We agree that transition to a fully implemented FW-FP system needs to acknowledge existing processes and knowledge relating to those plans.
- 3) IrrigationNZ accepts the fundamental concept behind the FW-FPs as being the National Policy Statement for Freshwater Management – Te Mana o te Wai (TMoTW) principles. These principles clearly establish joint obligations of communities, tangata whenua and regional councils of New Zealand to work together in a partnership. The TMoTW principles of environmental, social, and cultural concepts are stated in the encompassing languages of the Treaty Partners, yet they are clearly not the sole preserve of any one party. While the NPS-FM is quite directive towards the relationship between regional councils and tangata whenua as needing renewed effort, the NPS-FW does not require the only decision-making process to be between these two parties. In fact, the role of the community is highlighted throughout as being critical in establishing freshwater values and actions to address risks. The

reference is clear in the NPS-FW Part 1, clause 1.3 (4) (d) Governance responsibilities and (e) Stewardship obligations – the onus is placed on “*all New Zealanders to manage freshwater*”. The language and intent of the proposed FW-FP regulations need to be drafted to reflect the active role of the food and fibre sectors accordingly.

- 4) There needs to be a nationally integrated approach to capacity building, through training and accreditation of FW-FP certifiers and auditors, to support the development of functional FW-FP regulations.
- 5) Finally, we advocate that any regional plan drafting, and implementation timeframe should be in alignment with the nationally determined general regulations and guidelines to enable and ensure relative consistency of processes across the country.

Answers to Specific Questions

Section 2.4 How the FW-FP system fits with regional council planning processes (p. 13)

1. What other information should we consider about how the FW-FP system fits with regional council planning processes, and why?

- There is an important aspect that regional councils need to consider when responding to the FW-FP system in defining planning processes for environment objectives for communities, i.e., the language of change defines communities as including farmers and growers and their important role in the efficient utilisation of freshwater to produce, secure or increase food production.
- We suggest that wording of the second bullet point under Section 2.4 (as suggested below) be revised to be more inclusive in terms of better defining the work program of prioritising freshwater values. We believe this is directly in alignment with the second priority under the TMoTW - the health needs of people.

“Establishing what freshwater values need to be protected/achieved (e.g., ecosystem health, mahinga kai, recreation and food production to support human health) and what state the environment needs to be in to achieve that” (MfE 2021, p.13).

- We highlight the good work already done in some regions in establishing strong relationships through collaborative mechanisms, with some rural communities. Nevertheless, we also suggest that improved partnerships with tangata whenua and wider communities should not be at the expense of functional relationships with rural communities, farming sector bodies and catchment management groups.

Section 2.5 Role of tangata whenua in the FW-FP system (p. 13)

2. What information should we consider regarding the role of tangata whenua in the FW-FP system?

- We support the idea that it is important to consider the implications of the FW-FP system for tangata whenua as landowners and farm operators in their own rights. We assume that with the new approach to the FW-FP system and the predictions of possible difficulties of accessing finance for land held under Te Ture Whenua Māori Act 1993, enough planning flexibility needs to be put in place to determine the options, associated risks, and mitigation measures for these landowners. This flexibility will take account of the legislative requirements to invest in the required land use changes or the difficulties in determining mixed ownership responsibilities compliance.
- We note that the discussion of TMoTW principles relate to all New Zealanders and should not be seen as just the interests of tangata whenua at the exclusion of other parts of communities. The community participation including the farming sectors should be identified as partners in decision making and not ever designated as just stakeholders.
- We understand regional councils are being held accountable for engaging tangata whenua on freshwater planning. It appears throughout the discussion document, emphasis is placed on the needs of tangata whenua but inconsistently separates the roles from other community groups, that are also potentially impacted by these regulatory changes. We believe that this deviates from the wording used in the NPS for Freshwater Management 2020 document. In our view, engagement statements should be consistent with the wording found in the NPS for Freshwater Management 2020 document (see p. 11): *“Every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region”*.
- There will be instances when perspectives and the descriptive language used around freshwater values would be contradictory or confusing. Therefore, there needs to be an attempt for mutual understanding and development of terminology that sits comfortably within planning instruments. This could be relevant to resource consents, e.g., whereby scientific, and technical statements would better align with Māori perspectives and interpretations of guidelines and rules.

Section 2.6 A role for industry assurance programmes and other farm plan initiatives in delivering FW-FPs (pp. 15-16)

3. What other information should we consider regarding the proposed role for industry assurance programmes and other farm plan initiatives in the FW-FP system?

- We agree with the idea that the FW-FPs could build on existing IAP processes in some industry sectors. This approach will require the maintenance of relationships with farmers and growers, their sector bodies and markets through effective communication and building trust in ongoing processes. We believe many existing IAPs will be suitable, in the meantime, to support the implementation of FW-FP legislation. However, a thorough stocktake of existing IAPs will be required and we anticipate some will require refinement as they are often produced under a different set of market-driven objectives outside of freshwater management.

- We understand that there are many versions of farm environment plans and templates that practitioners are using that reflect various levels of focus, quality, and depth. We recommend that there needs to be some clear guidance on what should or should not be in a FW-FP. Each template would need to be broad enough to capture the functional elements common across all sectors but remain specific enough to each particular land-use activity and industry, while meeting the different regional planning practices.
- We note that there needs to be a clear role definition and clear guidance as to how current IAP assurance and checks would be adopted into FW-FP certification and audit process.
- There is an obvious issue already developing in some industry sectors where the necessary capacity of people with sufficient FW-FP and IAP expertise is lacking. It is not clear yet how the capacity demand will be met through training and certification to be able to fulfil all the functions in all regions.
- We are concerned that farmers could be overwhelmed with different farm plan types that may be cut across each other or have similar objectives and controlling mechanisms. We suggest this needs to be taken into consideration in the revision of regional planning frameworks to introduce FW-FP elements.
- It will be imperative that guidance is given to regional councils on managing strategies or frameworks for freshwater quality in a way that avoids different layers of control, duplication or contradictions in documentation and certification.
- Changes in any industry assurance programmes may be contradictory to the original market requirements and would not necessarily mean an IAP has the necessary legislative priority in a policy hierarchy context.

4. What are the likely impacts and cost implications of the proposed approach?

- If farmers and growers have to write an industry assurance programme document (e.g., for NZ GAP) and a separate FW-FP, duplication of effort and cost-inefficiency may occur due to covering similar elements.
- Another part of inconsistency could be mismatched timeframes: such as renewal of environmental values and concepts, renewal of farm plans, and renewal of other farm IAP certificates. There needs to be some alignment so that a farmer or grower does not have to do things repetitively.
- Some predictable costs might relate to the need for skill changes and adaptations plus the necessary investments in training and upskilling for proper implementation of the industry assurance programmes aligned to FW-FP objectives.
- In the next subsection, mention is made about integrated farm planning – *“This could include aligning planning and audit processes and data, information and reporting systems”* (p. 16). We assume, the alignment processes itself would be resource-intensive and costly. There are questions about the responsibility for advising and guiding the alignment of processes (regional council, MfE, etc.).
- Regional councils should establish practical timeframes for identifying options for the required changes relating to freshwater activity rules, processes and expected improvement.

At the same time, regional councils taking their own independent processes towards developing FW-FPs may lead to different timeframes and pose inconsistency when the intent and benefit for systems is to be aligned across the country.

Section 2.7 How FW-FPs fit with Integrated Farm Planning (p. 16)

- We agree with the intent to avoid duplication through taking an integrated approach. In this respect we assume the FW-FP will be a component of an overall Integrated Farm Plan. While they may stand alone as documents serving different purposes as management tools and compliance documentation, there is merit in ensuring consistency and avoiding duplication across all aspects of a farm that affects freshwater use.
- Therefore, we recommend consideration should be given to other legislative elements that exist or are under development, such as the Dam Safety Regulations (MBIE), drinking water source protection (DIA/Taumata Arowai), and water measurement regulations (MfE), and suggest these should also be included in a 'whole of farm' integrated approach. The ability to cover the risk assessment, planning for implementation of actions and certification of all these aspects of managing a farming operation would be resource-efficient and cost efficient. An integrated approach would, if nothing else, help to avoid too many people (advisors, certifiers, auditors, compliance staff) coming down the farm driveway to encroach on farmers limited time and resources.
- We recognize that the definition of an integrated farm management plan is broad as it can include animal welfare, staff management, infrastructure assets, nutrient, and fertiliser management, as well as freshwater management. However, a FW-FP could more easily be seen as a chapter/section within the plan that has language and definitions consistent with its use as a management tool but allows those matters related to demonstrating regulatory compliance to be extracted.
- The FW-FP should therefore be seen as a complementary module of the wider integrated farm management plan. The MPI workstreams to align farm planning process into a fully integrated plan should be undertaken with some urgency to not impede the progress on implementing the MfE FW-FP objectives.

Section 2.8 Transition to a fully implemented FW-FP system (p. 17)

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

- We are aware that farm plans will be phased in over time with roll-out prioritised in areas where waterways are less healthy.
- Our interpretation of this question is that existing FEPs will be allowed to continue until new rules are developed. This effectively implies a transition process, which emphasizes the reliance on *"relevant information and guidance in current FEPs"* (p. 18), planned for a period of 1-5 years until a full transition to the FW-FP system happens. We understand that

those existing plans would continue to be acceptable and further aligned with the new rules and processes. This approach will allow avoiding duplication with a wider objective of making compliance requirements consistent with RMA Part 9A.

- We note that in some regions, implementation of FW-FPs in various forms is already running ahead of either national or regional policies being fully developed.
- In respect to the long-term implementation timetable, we are aware of the proposed amendments to the RMA that could see it replaced by the NBA. The National Planning Framework proposed under the NBA may change the way regional plans and tools are developed and used. To achieve change in an orderly manner; will need time for things to be properly considered and a transition period could be longer than anticipated.
- Therefore, in determining implementation timeframes, we suggest that regional councils are required to engage early in their process with the sector groups, growers and farmers who have already been developing effective approaches to freshwater management. By engagement of the primary sector, councils should be able to improve the efficiency of implementation. We draw your attention to the principles of the International Association of Public Participation (IAP2) that the earlier genuine collaboration is brought into processes of new policy implementation, the more successful the adoption outcomes will be.
- We express our concerns about two types of factors that may affect implementation processes and timeframes. First, inconsistencies in earlier efforts are reflective of regional councils inconsistently interpreting their obligations around land and water management. Second, there is uncertainty for the sectors that find themselves operating under different planning rules across regional council boundaries. E.g., land use or farming methodologies are very similar but they face different regional rules (rules on fish exclusion screens on irrigation intakes can require different mesh sizes between different regional water plans).
- We agree with the proposed approach for transitioning to a fully implemented system again with prioritisation of communicating with farmers and growers early to draw on their views and interests. We also understand that covering all relevant areas during the full transition would be time consuming and that resource constraints may hamper work. We specifically understand that the implementation (including engagement processes) will take a time given the constraints on current limited capacity and capability of FW-FP authors, certifiers, and auditors. Hence, we expect that MfE will work with regional councils to specify constraints, risks and risk mitigation measures. We would therefore assume that MfE would need more time both for starting the phasing of implementation in 2022 and the full transition over the next 5-10 years.

Section 3.1 Regulated outcomes (p. 23)

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

- We support the concept of the broad outcomes described in option 1. However, we also find that these outcomes will need to be supported by guidance knowing that the guidance could change over time as knowledge increases. If the rules have been too prescriptive (such as writing lists such as in option 2 into the rule), that might create a procedural bottleneck when change is required. The reasoning is that to update components of a regional plan with improved knowledge can require multiple changes that can cause inefficiency (time and cost).
- In considering the option 2 prescriptive list, it is clear it is nowhere near exhaustive of things that affect freshwater management. The challenge in this approach is where to stop. For example, if regulations include fish passage criteria, they should logically include information on fish exclusion. There is no mention of this possible incompleteness made in the discussion document. We highlight that the more complete the list gets, the more inflexible the regulation becomes.
- Our objective for farmers would be to have information that would help avoid uncertainty. The broad objectives of option 1 are likely to be more adaptable to the spatial and temporal variations across national industry sectors. The approach would be to provide certainty supported by well-considered guidance that more easily enables adoption of innovation over time. The supporting guidance needs to be developed with the industry and kept up to date. A working example of this would be the water measurement regulations where the interpretation of that regulation and its amendments is supported by guidance developed jointly by regional councils, sector bodies and the industry, which is being updated as technology evolves.

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

- The time and cost of the planning process to amend a highly detailed set of rules (such as proposed under option 2) will be onerous, whereas modifying guidance materials sitting outside of regulations will be both time and cost efficient and agile (i.e., responsive to changes in scientifically-supported knowledge).

Section 3.2 Farm planning (pp. 23-24)

Questions – regulated 'base information'

8. Does the material in Appendix 1 cover all the base information that should be mandatory for inclusion in FW-FPs? If not, what else should be considered and why?

- We accept Appendix 1 captures a wide set of information. However, in close relation to on-farm freshwater management (given it is an input to the OVERSEER[®] model) Appendix 1 does not ask the nature and number of residences or habitable structures which are likely to have onsite wastewater, or septic tanks associated with human occupation.
- As an aspect of management of freshwater bodies, it appears no information is requested on stock exclusion through permanent fencing or if land is deemed to be retired from production such as permanent covenants articulated by Queen Elizabeth II National Trust.

- As part of an integrated approach to freshwater use and management it would be sensible to include how freshwater is used and distributed for human drinking water or as stock water.
- A key element of freshwater management will be efficiency and demand management achieved through understanding information about water storage dams on farms. This will then allow closer alignment of all elements of water in integrated farm management plans. The dam safety regulations require information on volume stored and height of dam walls to be collated and managed.

9. What are likely impacts and cost implications of the proposed requirements in Appendix 1?

- Most of this information should be available to the farmer. There will be a one-off cost of assembling information.

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

- Our assessment is that option 1 could be useful where a clear established local process already exists. However, for national consistency we feel a combination of option 1 and 2 is better. That might mean drafting a third option to better articulate the use of templates that set out minimum standards while allowing local nuances as suggested in option 1.
- We currently see significant inconsistency across NZ geographies and sectors and therefore confusion and inefficiency. The consultation document suggests strong emphasis on supporting guidance but with some minimum expectations that are talked about in option 2 through the provision of templates. If no industry assurance program or farm plan process exists, there could be inconsistency in prioritisation of risks and impacts where the choice of methodology is unconstrained.
- There should be enough flexibility to deal with geophysical variations and farming type variations, but the use of a template (as part of the rules or the guidance) could assist farmers in being confident their FW-FP certifiers are following best practice in assessing risks and opportunities.

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

- The development of a guidance material should be built on useful techniques that have existed for decades within NZ farming advisory material such as for soil conservation systems. The setting of FW-FP rules gives the opportunity to refresh and encourage better update of this knowledge.
- Too much of flexibility in risk assessment can cause inefficiency as different approaches will need to be compared side by side across different practitioners.

- Procedures for the assessment of risk require skillset that is captured by internationally accepted standards (e.g., ISO 31000¹, Risk management – Guidelines).

12. What are the likely cost implications of a risk/impact assessment? Is a flexible approach more cost effective?

- With different methods and language used, it is going to be costly because much time will be spent on interpretation.

Questions – identifying actions

13. Do you agree with our preferred option? If not, what is your preference? (see p. 28)

- We agree with the hybrid option.

14. What are the likely impacts and cost implications of the preferred option?

- The preferred option seems to be flexible to deal with risk assessment but provides some guidance around high-risk activities. The flexibility should provide a cost-appropriate solution to managing risks.

Questions – implementation timeframes

15. Do you agree with our preferred approach? If not, what is your preference? (p. 28)

- We agree that you should apply a reasonableness test to ensure robust decisions are being made and to confirm that actions are appropriate in each farm's circumstances.
- The certifier is certifying that the FW-FP can be made operative. That sets the timeframe for the implementation schedule and sequence of events that have to occur relevant to specific farm circumstances.
- The policy should not say, 'you must implement things within a specific time after being certified' as it is the author and the certifier of the FW-FP to determine this.
- There will be some requirement to ensure that farmers do not delay any reasonable implementation. The guidance on standards to be adopted by certifiers should cover this aspect. The factors influencing the reasonableness criteria could include cost, status/resilience of the enterprise, community practice, capacity, and capability, location in the catchment, and most importantly, minimum standards and metrics for environmental risk assessment².
- Some activities (e.g., establishment of wetlands) come at a cost. Changing a farming business model to provide the necessary funding will take time. However, the cost of implementation

¹ ISO 31000 provides principles, a framework, and a process for managing risk. It can be used by any organization regardless of its size, activity, or sector. While, ISO 31000 is not intended to be used for certification purposes, it does provide guidance for internal or external audit programmes which could lead to a common understanding and implementation of effective risk management.

² Macintosh, K. A., McDowell, R. W., Wright-Stow, A. E., Depree, C., & Robinson, G. M. (2021). National-scale implementation of mandatory freshwater farm plans: a mechanism to deliver water quality improvement in productive catchments in New Zealand? *Nutrient Cycling in Agroecosystems*, 120(2), 121-129.

should not become the dominant part of the reasonableness test. To avoid this cost barrier, we recommend consideration of additional funding support mechanisms. These could include financial incentives (tax, or rate rebates, or funding programmes) that support offsetting the costs of materials or sourcing native plants.

- It is obvious that environment, social and cultural criteria will be part of the reasonableness test. In this regard, two considerations are to be factored in. First, limited finance could mean achieving substandard outcomes on the three criteria. Second, if these criteria are set by regional councils, tangata whenua and community partnerships, but much of the cost of implementation falls onto farmers and growers, that would be an unfair distribution of burden.

Section 3.3 Certification (p.29)

Questions – certifier accreditation and appointment

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

- We agree with option 1, which reflects a two-tiered approach (national accreditation of certifiers followed by regional council appointment). We have two examples of these successfully operating: (1) the farm dairy accreditation programme, and (2) the accreditation of installation and the verification personnel under the water metering regulations.
- These programmes are examples that are widely accepted by government, regional councils, and industry for providing consistent processes nationally. The programmes factor in regulations and develop guidance material. Accordingly, regional councils have confidence that the accredited organisations have met the required technical competency and follow good quality assurance processes.
- A national accreditation programme provides a forum for sharing information and that collaboration further emphasises consistency of approach around things like risk assessment and timeframes.

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

- It will take time to get something established, but there are working models that could be adopted and/or built on.

Questions – role of certifier

18. Do you agree with the following assumptions? If not, why not?

- In most circumstances certifiers will need to ‘walk the farm’. We agree with this assumption, and we believe there would be very rare circumstances where it would not apply.
- We think it is acceptable that certifiers call on expert advice for matters outside their areas of expertise. However, farmers could be bearing inflated and uncontrolled costs especially where there is a small pool of expertise. There needs to be a capacity-building process so that certifiers increasingly improve their knowledge base so that their involvement is an

exception and not the norm. Continued professional development of certifiers should be a function within the re-accreditation program.

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

- The effectiveness of the certification programme will be driven by a robust and transparent complaints and disciplinary process. That process should mean practitioners that are not meeting standards, risk having their entitlement to operate as a certifier removed. This situation should become apparent by the capture and publication of unacceptable performance through an effective and consistent audit process.

20. Should there be a limit to the number of times a certifier can re-certify a FW-FP for the same farm operator?

- We do not agree with any limit imposed on the number of times a certifier can re-certify a FW-FP. This would be inefficient (duplication, cost, etc.) around forming trusted relationships and intimate knowledge of farming operations.

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

- The costs associated with the preferred approach will involve the costs of certification³ and those of paying external subject matter experts (SME). With the consistency of a certifier assigned to a farm, we expect costs will be predictable and manageable.
- The cost would likely depend on many factors relevant to a farm, the catchment, the changes required, and the competency of the FW-FP certifier. Possible cost reductions could occur where broadly experienced certifiers limit the use of professional SME input during the plan preparation and certification.

Engaging and paying for certifier (p. 32)

Questions – engaging and paying for a certifier

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

- We find it is reasonable that a farmer engages directly with certifiers and pays them, and we agree with the risks you have highlighted. A robust audit system may help mitigate the risks of client capture and deterioration of FW-FP quality.
- In addition, if farmers are part of an irrigation scheme, the irrigation schemes would benefit from the option of procuring the service of certifier in bulk on behalf of the farmers within the scheme.

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

- The costs and impacts have been highlighted in the document under the preferred option.

³ As per the MfE information “costs could range between \$1,500 – \$10,000 per farm, with an average of \$3,500-\$5,000” (see [FW-FPs | Ministry for the Environment](#)).

- The quality audit will need to have a specific implementation timeframe. This consideration would assure early assessment of a certified product/farm plan, while ensuring quality, thorough evaluation of achievability of plan outcomes and objectives, and timely tracking and reporting of quality costs.

Regular review and re-certification (p. 32)

Questions – review and re-certification

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

- The following section in the discussion document, covers triggers of farm circumstances and changes requiring re-certification (see p. 33). Thus, we don't see a need for a time-based schedule for recertification of a FW-FP. We suggest that duration-based reviews are a matter of an audit schedule rather than unnecessary re-certification.
- We assume that the person that is going to be the certifier of the farm plan is most likely to be a trusted advisor who is part of ongoing farm management decision support (so, is likely to be there more frequently than a 3 to 5-year interval). Their role is likely to be around assisting in the implementation of the agreed risk mitigation actions timeframe that was discussed in section 3.2.

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

- Not giving sufficient time to farms to implement agreed changes will incur additional costs. In addition, if the proposed 3-year review is adopted this will put pressure on the certifier capacity, the review itself will be delayed or an alternative certifier with less familiarity might be assigned to the role. All these factors risk causing schedule delays and cost escalations.

Questions – new plans, addendums, and amendments

26. Do you agree with the proposed categories and triggers for new FW-FPs, addendums, and amendments? If not, what is your preference?

- We agree with the proposed categories and triggers for new FW-FPs, addendums, and amendments but we believe that this list is not exhaustive. Obvious things such as extreme weather conditions, climate change, biosecurity outbreaks, or force majeure situations could require a dramatic change in thinking of the farm management process and therefore trigger changes in the farm plan which will need to be recertified.

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

- Lodgement of the ever-changing certified farm plans somewhere within a regional council or national register and maintenance of the register would become a significant compliance cost.

Questions – dispute resolution

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

- A disputes process will be needed that allows almost any party to highlight matters such as errors and omission, negligence in preparing, certifying, and implementing a farm plan. The disputes process needs to be set up to allow minor items to be dealt with informally and locally, whereas a major lack of performance by any party might have to be elevated to the national certifier accreditation or audit body.

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

- It is desirable that simple local interventions and solutions do not attract high cost of a potentially complex major dispute process.

Questions – complaints process

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

- We agree that where a situation has deteriorated to the point of a formal complaint lodged about the certifier or an auditor, that process is best managed by the national certifying or audit body. We understand, the benefit of using a national body is that it provides an opportunity for consistency and re-education, especially where recurring themes become apparent in failed audits.

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

- We would anticipate that the cost would be proportional to the complexity of the complaint.

Questions – removal of accreditation

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

- We agree with the proposed approach.
- For FW-FPs to achieve consistent and timely environmental improvement, responsibilities fall heavily on certifiers to work to the highest professional and ethical standards and demonstrate appropriate technical competence.
- Therefore, the robustness of the certification program comes from the strict application of a de-certification process for those who underperform.

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

- The underperforming certifier that is at risk of losing their credentials should likely be the cost of the process and the overall system including the specific workforce capacity.

Section 3.4 Audit (pp. 35-37)

Questions – accreditation and appointment of auditors

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

- The FW-FP legislation needs to ensure there is not confusion that the function of auditor is quite independent of the role of certifier. The auditor ideally would have a reasonable level of knowledge for the type of enterprise activities that they would be investigating. However, their core function is to compare the certified plan against actual evidence of implementation. Their skillset therefore needs to be similar to many other well-established audit professions, such as workplace H&S, electrical system inspectors, etc.
- Option 1 provides efficiency of approach and national consistency.

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

- Adopting an established national audit process is likely to be more cost efficient and consistent.

Questions – audit frequency

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

- We accept that the proposed auditing frequency based on compliance achievement is reasonable. We assume that the regional council will control and manage the audit process and will be involved with determining the actions arising from a detailed audit. The overarching auditing body may have additional refinements on good practice around audit frequency. We agree with the statement about the frequency of audits by approved industry assurance programmes.

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

- Adopting or adapting elements from an existing nationally consistent audit process will be most cost effective.

Engaging and paying for an auditor (p. 37)

Questions – engaging and paying for an auditor

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

- We agree with the proposed approach in relation to individual farmers. However, for an irrigation scheme, that engagement and payment may be coordinated by the scheme centrally.

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

- We assume that the audit process is operated under a well-defined scale of fees and that would be significantly less expensive than the certification process.

Section 4: Quality assurance of FW-FPs (p. 38)

Questions – quality assurance

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

- We agree that quality assurance of certifiers is covered by national accreditation body. To be clear, we also agree that a quality assurance mechanism is necessary to provide national oversight of auditor activities. We also expect that the FW-FPs should be driven to be of high standards through ensuring a high-quality auditing process that scrutinises both implementation of actions and quality of data associated with each certifier's work.
- Analysing the pass and failure rate of the various aspects of the audit, as well as, considering strengths and weaknesses in the FW-FP process should be part of the reporting functions of the national audit body.

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

- The analysis of the audit results would start to show whether there are concerning trends such as a high rate of failure about a particular aspect of risk and actions associated with a particular certification location. That would ensure the quality assurance check is highlighting if the failure is an individual performance issue or bias as opposed to actual consistent failure to implement freshwater improvements.
- Beyond that, there would likely be a need for randomly administered checks based on the volume of audits in a particular area or for a certifier.
- Other triggers could include incidents of disputes and complaints directed to regional councils.

42. What are the likely impacts and cost implications of the proposed approach?

- An effective quality assurance programme adds value and that it ensures consistency and provides well-articulated feedback that is aimed at education. We do not know what the costs would be.

Section 5: Enforcement mechanisms (p.39)

Questions – enforcement mechanisms

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

- We believe that the proposed penalties are relatively light compared to the possible environmental impacts of failure to implement agreed actions.
- The context for consideration would also be the cost of attending training on environmental programs.
- The legislation should also be accompanied by consideration of incentives. In other words, alternative mechanisms for behaviour change or diversion rather than only punitive measures could be introduced: these would include examples such as being required to attend courses on FW-FP preparation or environmental training.

- Any fine collection system adopted should allow directing funds to a consolidated account targeted at implementing re-education/training and not offsetting regional council administration costs.

Section 6: Implementation options (pp. 40-41)

Questions – implementation

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

- Option 1 is a better way of approaching a catchment level risk and value assessment, rather than focusing on farms of a particular type (e.g., targeting of perceived high-risk activities over actual catchment values). It also fits well with the overall intent of the legislation.
- Option 2 is targeting high-risk farms. In the absence of any farm-specific risk assessment, prioritisation of farms would be based on generalised assumptions not accurate enough to support achieving catchment-based improvements (prescribed in the legislation).

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

- We understand that freshwater farm plans are a mandatory requirement for pastoral, arable and horticultural farms (New Zealand Government 2020⁴). We encourage an early investigation of possible challenges of opting into the system, despite the 'mandatory participation' attribute of the reform.
- The incentive of an "A-grade audit" plaque displayed at the farm gate should not be underestimated as an outward expression of positive change and encourage those in the same catchment to achieve the same level.

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

- Importantly, farmers and growers will need to be involved in processes determining the prioritisation in a catchment context to ensure best allocation of time and resources is made.

Section 6.2 Understanding catchment values and context (p. 41)

Question – understanding catchment values and context

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

- Principles of IAP2 (the framing of the problem in a genuine collaborative partnership at the front end of developing a change process) is the best way to ensure success and ownership of any change required. Therefore, it is wrong that the discussion document states that regional council partnership with tangata whenua is the best way to achieve this.

⁴ New Zealand Government (2020) Resource Management Act 2020. New Zealand parliament, Wellington, New Zealand.

- Most farmers and growers are already closely involved within their catchment context and understand the values and these need to be incorporated within the planning framework. However, there will be exceptions and knowledge gaps in this process.
- This will require verbal, visual, and hands-on involvement. There will always be opportunity for improvement in the development of information and training and that needs a collaborative and inclusive effort. There will be different ways of communicating and explaining values and context depending on the audience and level of participation.

Section 7: Reporting and review (pp. 42-43)

Questions – data collection

48. 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?

- We agree that the three broad data areas are going to be a good way of demonstrating positive behaviour change that provides the best opportunity for environmental improvement.
- These data points are however only indirectly linked to measuring in-situ water quality and ecosystem health. Direct environmental measurement from water bodies is needed for determining water quality and ecosystem health. This would not be necessarily included in a FW-FP as it is a core function of a regional council's duties.
- The preparation of a FW-FP is a time-consuming and costly process. Therefore, the publishing of data for national and international reporting requirements may need someone to pay for the information or to compensate farmers for having gathered the data.
- We agree that *"reporting on indicators needs to be done with care for privacy"* (p.42); and that no farmer is identified publicly.
- The ability to report nationally on specific data such as length of waterways with stock excluded, wetland areas protected, or implementation of other on-farm actions will require very well prescribed data standards. E.g., a question is whether the reporting will address the length of waterways, or how waterway fencing is managed. Another question would be whether the length of waterways will be reported as meters or kilometres. It is clear in this example there could be vastly different values captured through data standard inconsistency.
- To make a farm plan digital would suggest a consistent national template and central oversight of regional certificate records and audit reports to support national reporting requirements. There will be lots of benefits from digitising farm plans as early as practicable, while recognising the need for a commercial access control approach.

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

- There is an opportunity to report on the catchment scale risk profiling compared to just farm plan actions and implementation.

- Risk profiling can indicate catchment issues and values that are at risk or high risk and those that are not. Consistent reporting styles over time will be relevant and digestible for a public audience, while assisting with the positive messaging of changes.

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

- Establishing and managing any national data set and its analysis will need specific planning of national budget and resource allocation which could be substantial.

Section 7.2 What regional councils report publicly (p. 43)

Questions – reporting publicly

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

- We agree that public reporting will be beneficial in informing all parties about the progress in the FW-FP system.
- However, we want to emphasise that this transparency will go beyond just building confidence in the system for the specified groups – tangata whenua, the public and the consumers as stated in the discussion document.
- The group most in need of positive messaging and support are farmers and growers who are being tasked with implementation of actions that will change their daily lives, business models and satisfaction of being farmers. It is these parties that need to have confidence that their efforts and contribution to the FW-FP process is recognised and valued. This will eventually help ensure their active and positive participation.

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

- Rules around public reporting can be determined based on existing practices on privacy and confidentiality determined by relevant legislation and regulations.
- We assume that only aggregated data will be made public. For small catchments where some farming enterprises represent a large proportion of that catchment, particular care will be needed to maintain confidentiality.

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