

FACTSHEET

The Government's consultation on freshwater farm plans

B+LNZ's assessment and guidance to farmers on making a submission

August 2021



The Government is also consulting on proposed changes to the low-slope map for stock exclusion at the same time. **See the separate factsheet on the low-slope map for more detail.**

Note: B+LNZ has consulted with Federated Farmers and DairyNZ and our positions are aligned when considering the content in this factsheet.

Certified freshwater farm plans are part of the essential freshwater package released in July 2020. Under the RMA, they will be required over time for all farms with 20 or more hectares of land in arable or pastoral use (or five or more hectares of the farm in horticultural land use).

The purpose of certified freshwater farm plans is to provide a nationally consistent regulatory plan specific to managing the effects of farming on the health of waterways. The regulatory component could be incorporated as part of a broader farm plan, but only the freshwater component would be regulatory.

Central government is now consulting on proposals for how freshwater farm planning could become operational across New Zealand. Currently, different regions have different standards for the content, implementation, and auditing of farm plans and the use of farm plans as regulatory tools is limited.

The discussion document outlines how central government thinks a freshwater farm plan could be developed, implemented, audited, and what high-level information could be required in a farm plan. The document proposes:

- ways that a farm plan could be completed
- who can be a certifier or auditor of farm plans
- how certifiers/auditors are appointed, who engages and pays them
- how disputes are resolved, the timeframes for review, and how the quality of decision-making across the system could be assured.

This factsheet provides you with an overview of our analysis of this discussion document, the Government's proposed process that a farmer would follow to get a freshwater farm plan done, and guidance for farmers on how to make a submission as part of this consultation process.

You can read the Government's proposals here: [Freshwater farm plans regulations discussion document](#)

There's a summary of the discussion document here: [Summary of the discussion document](#)

You can find out more about the consultation on the Ministry for the Environment (MfE) website here: [Freshwater farm plans consultation page and they have also published FAQs: Freshwater farm plans FAQs](#)

And an overview here: [Freshwater farm plans](#)

B+LNZ's assessment of the proposals

B+LNZ was originally one of very few agricultural organisations to oppose the Government's plans for a mandatory Certified Freshwater Farm Plan. We reluctantly agreed to this approach (along with all other agricultural groups) in return for an **industry-led, outcomes based, non-prescriptive approach to the plans**.

In general, the content in the discussion document aligns with many of B+LNZ's positions (such as providing space for farmers to develop their own freshwater farm plan content and to do so via industry schemes), and our advocacy work aimed at providing practical solutions within the farm planning space.

However, the content in the discussion document is relatively high-level and the devil is always in the detail.

We need to see the detailed regulations on the farm plan to be able to make a proper assessment and are asking the Government for assurances there will be further opportunity for industry organisations and technical experts to comment on the proposed regulations once they have been drafted. We encourage farmers to ask in their submission for further consultation on the detail of the regulations before they are implemented.

Farm plans historically were intended to add value to the farming business and help inform management decisions to unlock the productive potential of the land while managing environmental effects. They have not traditionally been a compliance tool.

We therefore still have significant concerns about applying a regulatory and compliance mindset to the freshwater farm plans.

Our guiding principles are that the freshwater farm plan should be based on industry-led farm plan approaches, practical, outcomes-based and not input-based and ensure the privacy of farmers' data.

The adjustment of farm plans into a more regulatory space does not mean they can't still be used to support farmers to make good decisions. However, we need to ensure they are still designed by farmers and for farmers rather than put upon farmers.

We will be looking to ensure that the detail and prescription is at the right level to not just become a tick-box exercise that is excessive, inhibits innovation, or prevents risk-based management.

Summary of the proposals

- The proposals provide the ability for farmers to **develop their own farm plans**, or through an industry assurance scheme – in either case the plan **must then be certified** by an independent certifier. We need to understand how this would work to deliver certification at a mass scale, over a relatively short period of time, with limited numbers of certifiers.
- The proposals seek that farm planning content focuses on **ecological health, aligns with catchment values and context, and prioritises on-farm actions** based on the risks, costs, benefits, and impacts. The farm plan should therefore be **tailored** to the local environment and community, as well as the natural landscape, but it is unclear how farmers' aspirations will be factored in.
- In addition, the expectation in the proposals is that **tangata whenua** have active engagement throughout the process (primarily at the regional council or catchment level) but farmers would not be expected to have their individual plans approved by iwi or hapu directly. There is currently limited detail on exactly how this will work, however.

Following are some general comments – then the proposed process is set out.

Comment 1: Timing

There is a strong signal in the discussion document that farmers in some catchments would be required to have a farm plan as early as mid 2022 (or prior to this – although it's not currently clear) with those plans updated when catchment visions, values, limits and rules are set through the regional council plan process.

It is unclear how many farmers would be covered by this first tranche of farm plans, but we have significant questions and concerns about the capacity to get a significant number of farm plans completed and certified by the first part of 2022. Put simply, we don't think this is feasible – you can't build the plane while you're flying it. In addition, the first set of farm plans may face a more challenging road than those that follow given the current information, the number of, and skillsets of, the potential certifiers, and lack of systems and skilled people in place within regional councils at this point. It is important to get things done well and set realistic timeframes from the outset, rather than rely on troubleshooting along the way.

To get this done right, multiple parties will need to come to the table, regardless of the timing. We will be seeking further clarification on the Government's intention to support the widescale adoption and implementation of freshwater farm plans given the limited resources within regional councils and industry bodies.

Comment 2: The use of freshwater farm plans as a regulatory tool and level of prescription required

The expectation throughout the consultation document is that a large amount of detail and standardisation would be provided for via 'guidance material' from MfE. There are also significant expectations placed on multiple national entities (likely operating out of central government) to manage the process and confirm its effectiveness.

These two elements of the proposals mean that, depending on the detailed design and implementation, farm planning could become more of a tick box or 'command and control' exercise predominantly controlled by central government officials or Ministers. We see this as regulation by stealth coming from central Government rather than from bottom-up (locally).

The Government has provided for industry-led assurance schemes as part of the rollout of freshwater farm plans. However, we need further information on how these schemes will be aligned and the administrative burden – especially for certification and audit – would be reduced. We want to ensure catchment communities are provided with ways to work together as a group in the most efficient and empowering ways.

B+LNZ wants to support farmers as best we can, including through the development of templates and plans that help meet the requirements of freshwater farm planning. These ensure the retention of a risk-based approach that takes account of each farm's unique circumstances and aspirations when looking at how freshwater, or other natural systems or resources, can be managed.

Comment 3: Farmer privacy

While there is acknowledgement of privacy concerns within the consultation document and proposed mechanisms to manage this, it is unclear how anonymity will be ensured throughout the entire process.

B+LNZ believes that farmers private information should remain just that, private and will be making the case for this through our submission, working with other industry organisations and engagement with the Government. The plans will contain a wealth of information that could be considered intellectual property and we have repeatedly said the only information made publicly available should be the most recent audit outcome – basically whether it passed, similar to public-facing food safety grade certificates in restaurants or cafes, or WoF stickers on cars.

The Government has acknowledged some of our concerns by noting that activities, such as length of waterways with stock excluded / erodible land treated / wetland areas protected etc would be reported at the aggregate level, and other details would be excluded. The privacy concerns of these metrics, or other identifying features included within a Freshwater Farm Plan will be assessed further and commented upon in our submission.

While the general inference in the consultation document is that farm plan content would not be public and that data that is reported publicly will be aggregated where possible (and therefore individual farmer's information will not be public), there is still a risk that freshwater farm plans provided for review along the way could become public without the proper protections utilised. We will be submitting on closing that potential loophole. Also while the Local Government Official Information Management Act contains some protections there is no mention of this in the discussion document or what guidance would be provided to councils on this – it should not be able to be interpreted differently across regions.

Comment 4: Implications of creating entirely new systems

The Government's proposal sets out what needs to be done but provides no detail on how this will happen. Policy design is only as good as its practice on the ground.

Due to the lack of detail provided, there are a range of questions remaining. This includes the feasibility of the timeframes for getting these new mechanisms operating, and for getting farmers through the system once it is operational.

The discussion document clearly sets out what every person in the chain has to do, which is helpful. But it also makes it clear that a whole new market for specific certification and auditing services is likely to be created as a result, which we have significant concerns about from a cost and potential quality perspective.

B+LNZ's view is that we should build off existing industry schemes wherever possible and be careful about the risks of creating new systems. We want to make sure farmers have a variety of ways to 'get' a certified freshwater farm plan and that catchment and industry programmes are a major pathway. This includes the ability for farmers to attend workshops and become certified by their workshop facilitator. The discussion document proposes freshwater farm plans must be certified by an accredited certifier. Our view is that those certifiers could be part of wider industry assurance schemes or part of a regional council, operating independently or in partnership with a catchment collective.

We don't yet have information about pricing, minimum standards or other details of the new systems. We are concerned about the direct costs both to farmers and regional councils (which will then flow back to farmers through increased rates) of implementing this process. We will be seeking assurances that guidance or controls will be put in place to ensure prices charges for farm planning activities by certifiers, including their time to 'walk the farm', are fair and reasonable (how this could be done would need to be developed further). This is especially important considering the regulatory nature of the freshwater farm plans and the need to ensure consistent quality from all suppliers entering the market.



The proposed process

Below is the process a farm operator would follow **if the list of preferred options in the discussion document were adopted**. You can also see this as a diagram within the consultation material.

Step 1: Identify when a given farm operator would 'need' a farm plan

- a. Where and when farm plans are required is determined by the Minister for the Environment as advised by their officials. Farm plans could first be required for individual farm operators in a given catchment/sub-catchment. This means that the Minister can decide that all farm operators within a given catchment area would need a freshwater farm plan by a certain date. This could be as early as the first half of 2022.

Step 2: Choose who will complete the farm plan

- a. A farm operator can create their plan on their own or with support/advice from an advisor as required. Given the base information and content required, it is likely that review/support by an advisor (preferably one who can give advice and then 'certify' the plan once amended as needed) will be required.
- b. The expectation is that the farm operator pays for the certifier to review and approve the plan and, in time, also pays for the costs of an audit. It is unclear what systems would be put in place to manage or minimise the costs associated with this review and approval.

Step 3: Note what is required in a farm plan

- a. All farm plans must have the same kind of 'base' information. This includes mapping information, farm ownership details, and basic description of the farm system. A single 'economic' unit would define the boundaries of a farming system rather than the physical property boundaries. For example, runoff blocks on land not owned by the business (and being managed by a different farm operator) will need to be part of a separate freshwater farm plan prepared by the applicable farm operator. Guidance on much of this content, and how it is defined, is yet to be confirmed - in other words, we need to see the detail.
- b. Each farm plan must demonstrate the farm's connection to catchment values and context. That is, if sediment is the biggest issue in the catchment, then the farm plan needs to highlight what risks of sediment loss to waterways is occurring on-farm and how this is being managed.
- c. Minimum standards (but not a template) would be created for an assessment of risks and impacts of farm practice that will contribute to catchment goals. This needs to be transparent, generally produce similar results when applied across farms in similar circumstances, and provide an assessment of the relative severity of risk or impact. A certifier would be seeking to ensure all appropriate risks were highlighted and addressed. (A combined consultant/certifier, if available, could recommend to the farmer how they could be best managed)
- d. Actions noted in the farm plan will be guided by the needs of the catchment, current and proposed farm practices, and the consultant's advice. Actions chosen need to adequately manage the key risks identified.
- e. Certain content included within the actions of a farm plan, such as length of waterways fenced, need to be reported to regional councils. Regional councils then report the total works done, and their likely impact on freshwater, to central government. Guidance on what these actions are and how privacy will be ensured is to be confirmed.
- f. Note: certified freshwater farm plans could be used as a replacement for some Resource Consents. Over time, the idea is that freshwater farm plans will be increasingly relied on by regional councils and reduce the need for consent applications.

Step 4: Choose who will 'confirm' the farm plan is compliant

- a. 'Certifiers' of farm plans will be approved by individual regional councils to operate in their regions but will be 'certified' by a (to be created) national body. Regional councils can choose what additional (if any) local knowledge would be required. A farmer chooses which nationally and regionally approved 'certifier' they want to work with.
- b. If the 'certifiers' are not continuing to meet the nationally set standards for competency and experience, regional councils can ask for a review of them or their work, and a regional council can take away approval for a 'certifier' to operate in their region.
- c. Industry programmes, and possibly regional council programmes, can be assessed and may be recognised as being appropriate to deliver a freshwater farm plan. Those standards and processes are to be confirmed.

Step 5: Implement the plan

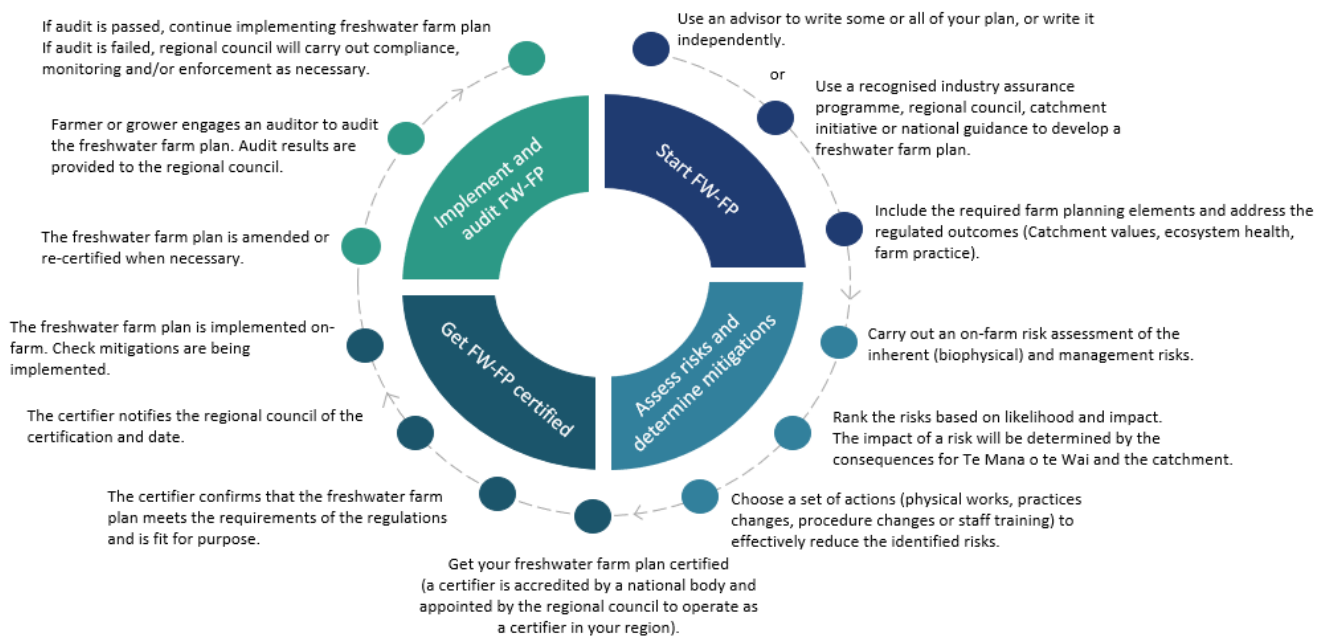
- a. The landowner with potential support from regional councils will implement the plan’s actions.
- b. Implementation timeframes for actions in the certified freshwater farm plan will be determined by what is ‘reasonable’ as assessed by the farm plan ‘certifier’. Further detail and guidance will need to be provided on this.
- c. Note that a freshwater farm plan is expected to sit within a wider ‘integrated farm plan’ that can operate as a framework to incorporate both regulated and non-regulated requirements (i.e. GHG emissions, freshwater, and biodiversity). Ideally, the requirements of the certified freshwater farm plan would be aligned with any GHG emissions requirements.
- d. A new farm plan is required if it is ‘no longer fit for purpose’ due to change in farm system, land use, ownership/ farm operator etc.

Step 6: Choose who will audit the plan and its implementation

- a. Auditors will review farm plans on a set schedule. Initially, all farms will be audited within 18 months of certification. After that, audit frequency will depend on compliance with the farm plan actions.
- b. Regional councils will be required to appoint freshwater farm plan auditors to operate in their regions. Central government would work with regional councils to ensure that auditors have any specific competencies necessary to undertake freshwater farm plan audits. These specific competencies can be provided for through the council appointment process (probably based on nationally set guidance).
- c. An auditor will only assess the farm operator’s adherence to the farm plan, not whether the farm plan adequately addresses the catchment and farms risks. Reports (audit outcomes) go from the auditor to the regional council to consider.
- d. A quality assurance programme will ensure certified freshwater farm plans can achieve intended freshwater outcomes. This is proposed to be managed by some form of Crown/central government entity and be co-funded by certifiers, regional councils and central government.
- e. A to-be-created national body will manage any disputes between certifiers and farm operators. This would be the same body that ‘certifies’ qualified individuals. This national body would also be responsible for disciplinary action for certifiers if needed.
- f. Enforcement of non-compliance (as identified by the auditor) with a farm operator’s farm plan is managed by regional councils. Fines can be imposed at a regional council’s discretion and initial ranges are suggested to be from \$500- \$1500.

Farmer and grower journey through the freshwater farm plan system

Based on preferred options



Role of central government

- Design freshwater farm plan regulations
- Review and evaluate freshwater farm plan system

Role of regional councils

- Collate catchment context (initially the best available information)
- Work with tangata whenua to express catchment values and reflect Te Mana o te Wai
- Appoint auditors and certifiers
- Carry out compliance, monitoring and enforcement

Role of national accreditation body

- Ensure certifiers have adequate knowledge and competencies
- Train certifiers in relevant areas
- Define the scope of the roles
- Ensure a high standard of ethics in certifiers



What to make a submission on

The discussion document for the consultation asks a series of questions in each section – there are 52 in total – but these are a guide only and you don't have to answer any/all of them.

The main point we suggest farmers make in their submissions is around the level of detail in the content provided to date – because this is relatively high-level, it would be useful to have more people asking for assurances there will be further opportunity to comment on the proposed regulations once they have been drafted (especially the detail of what goes in a freshwater farm plan).

B+LNZ suggests farmers think about what freshwater farm planning would look like from their perspective if all the preferred steps outlined were implemented, and note the impact if the alternative options are implemented.

B+LNZ is particularly interested in hearing from farmers with existing regulatory farm planning processes to inform our submission, or to make their own submissions, as we believe this experience could be influential. This includes information on:

- excessive prices paid for sub-par farm plan creation, certification, or auditing
- unexpected changes to farm plans, especially within short timeframes
- inaccessible data required to complete an adequate farm plan
- challenges finding suitably qualified and experienced professionals to support the creation and review of farm plans
- and you can also comment on what worked well in that process.

How to make a submission

There's detailed information on page 44 of the discussion document but, in summary, you can either:

- make a submission on MfE's consultation hub at <https://consult.environment.govt.nz> or
- write your own submission – note that uploading a file of this in the consultation hub is preferred, and there are some requirements around what to include if you provide a written submission and around what format to use if you send your submission by email.

The consultation closes on Sunday 26 September (note this is now later than the original closing date of 12 September). Remember to explain your reasons for any feedback you provide and include supporting evidence where appropriate.

What next

B+LNZ has started work on a detailed submission on the proposals – we'll continue to refine our analysis based on farmer feedback and we have started testing our points with B+LNZ's Environmental Reference Group and other groups as required.

We intend to release the final submission in early September and will advise farmers when it's available. You might want to draw on this detailed advice in your own submission.

More information

Questions about the consultation should be directed to MfE in the first instance – you can email freshwaterfarmplans@mfe.govt.nz

If you want to contact B+LNZ, email enquiries@beeflambnz.com