

Freshwater Farm Plans: thought you'd *herd* it all?

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From 1 August 2023 Freshwater Farm Plans (FWFP) start rolling out in Southland and Waikato. Implementation in Otago will start with North Otago and Lower Clutha in early 2024 and be staggered through to late 2025 with the Dunedin and Coast FMU being the last area.

Every farm will require a FWFP to identify and assess environmental risks and vulnerabilities. Having done that, the FWFP must address how the farmer will respond to the issues - and within what timeframe. They are intended to ensure that adverse effects of farming (such as effluent or sediment discharges) are managed and are primarily directed towards freshwater and associated ecosystems. We understand that over time their application may be expanded to address other matters such as biodiversity.

This article provides a high-level overview of what your FWFP will require.

If your farm meets any of the below land size thresholds, then a FWFP will be required:

- 20 or more hectares in arable land use; or
- 5 or more hectares in horticultural land use; or
- 20 or more hectares in pastoral land use; or
- 20 or more hectares of the farm is a combination of 2 or more of the above land uses.

What must you do?

- The responsibility for preparing a FWFP sits with the 'farm operator', being the person with ultimate responsibility for farm operations. This will differ depending on the operating model. Such as:
 - Sharemilking agreements: the landowner is the farm operator unless the parties agree otherwise in the sharemilking agreement.
 - Management agreements: the landowner retains overall control over decision-making on the farm, so is likely the farm operator. However, parties may agree otherwise in the management agreement.
 - Lease agreement: there may be an existing clause identifying who is responsible for meeting regulatory requirements. If not, then the parties need to make that decision together.
 - Contract grazing: as the landowner is responsible for decision-making on the farm, they would likely be the farm operator.

What goes in a FWFP?

All farms are different and the catchments they operate in are also different. The FWFP must respond to the unique circumstances of each property and the catchment context surrounding it – this will include the following:

- Each land unit – e.g., is the farm made up of several different blocks?
- Vulnerability – e.g., are there wetlands and streams passing through the farm, areas of land instability?
- Risks – e.g., do current farm practices create risks of sediment discharges?

The FWFP must then identify actions to avoid, remedy, or mitigate the vulnerability and risks and how they will be responded to (including what timeframe).

The FWFP needs to take into account broader catchment related considerations, which is particularly relevant where an adverse effect arising on one property may have downstream effects on another. For this reason, the unique context, challenges, and values (e.g. recreational or ecological biodiversity) of the catchment should be considered. Information about this will be available from the Regional Council.

Certification

A FWFP must be certified to ensure it meets all the relevant regulatory requirements. Certification will be undertaken by a farm certifier nominated by the regional council. A farm operator must submit a freshwater farm plan for a farm to a certifier within 18 months (i). Failure to do so may incur a \$1,500 fine.

Once certified, a FWFP will generally not need to be recertified for 5 years. However, specific events may require re-submission before then, including where significant new vulnerabilities or risks have been introduced, or where the farm system has significantly changed.

Auditing

An audit of the certified FWFP is required within the 12 months of certification. The audit will specify when the next audit is required which may range between 3 years and 6 months. Longer timeframes are given where the farming activity is operating well and there are no immediate changes required. Where an operation is undergoing significant change to manage identified risks, more frequent audits may be specified.

Challenges ahead?

There is no doubt these regulations present a new challenge for farmers. Particularly as there remains a reasonable degree of uncertainty about exactly how the FWFP process will play out. Thankfully, Otago farmers can observe and learn from the experiences of their counterparts in Southland and Waikato.

Some of the key challenges we see are:

- There being an adequate number of certifiers and auditors to complete the processing in time.
- Farmers having a good understanding of who is responsible for the preparation and management of FWFP in different management arrangements. This may require review of existing contractual arrangements to address FWFP compliance directly.
- Translating broader catchment context and values to the on-farm environment.
- Cost and time – these processes inevitably take time, and the formal certification and auditing requirements will come at a cost.

Our advice is start early – This can be as simple as starting to make notes as you are out and about on farm areas of the property that are always a bit of a challenge – the boggy bits, the areas that slip occasionally etc. Check your farm maps, and make sure they are up to date. Many of you will already have a farm environment plan of some description that will provide you with a starting point. Contact your local catchment group and begin talking to each other.

The Ministry for the Environment and regional council website will provide increasing amounts of information as time goes on. The Otago Regional Council will also be running workshops throughout the Region and contacting landowners directly.

If you require detailed guidance on what this means for you or your farm, or you encounter issues along the way, feel free to get in contact with our Resource Management or Agribusiness Team. Check out our website from time to time as we will be updating information as the process evolves too.

(i) Commencement dates for Otago FMU's and Rohe's can be found here: <https://www.orc.govt.nz/consents-and-compliance/the-farmers-guide/freshwater-farm-plans>