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Submission to the Ministry for the Environment

Freshwater farm plan regulations discussion document

Introduction

1. The Chatham Islands Council (the Council) welcomes the opportunity to make a submission on the Freshwater Farm Plans discussion document. We acknowledge that there are details about the freshwater farm plan (FW-FP) system and how it will be implemented that are still to be confirmed. The Council would like the opportunity to continue to work with the Ministry for the Environment (MfE) and the Ministry for Primary Industries (MPI) to help refine these details in the future.

Background and context

2. The Chatham Islands Council (the Council) was set up under the Chatham Islands Council Act 1995 and governs the Chatham Islands Territory. The Council has the functions, duties, and powers of both a territorial authority and a regional council. The Council has a single resource management document that contains all the information that the Resource Management Act 1991 (RMA) requires to be contained in a regional policy statement, a regional coastal plan, and a district plan.

Part 1: Opening Comments

Phased Implementation

3. The Council supports the phased approach to transition and implementation but considers that the specifics of the phased approach should be considered further. The Council considers that specific issues relating to farmers on the Islands having no experience in developing farm plans, a lack of catchment data, and the need to develop engagement protocols with tangata whenua prior to the preparation of catchment information, indicate that the requirement for farmers on the Islands to develop FW-FPs should occur after the completion of such plans on mainland New Zealand.

Role of mana whenua

4. The Council supports the direction set out in the discussion document to improve opportunities for tangata whenua to be involved throughout the FW-FP system. We also acknowledge capacity and financial constraints facing tangata whenua, and that it will take time to develop engagement protocols to allow this involvement to

occur. The Council would support Central Government funding of tangata whenua to allow them to take part in the FW-FP process to the fullest extent possible.

Proportionality

5. The Council accepts the rationale for requiring the majority of farms to have FW-FPs to help manage their impacts on freshwater. We support the potential benefits that this could bring, including the protection of the unique environment on the Islands.
6. The risk assessment based approach described in the discussion document acknowledges that the costs associated with implementation of the regulations should be relative to the risks to freshwater that an individual farm poses. Particular conditions should be taken into account when implementing the proposed regulations on the Chatham Islands. These conditions include low stocking rates that present low risk to waterbodies, and the high cost of carrying out work on the Islands owing to their isolation. It is important that the approach for the Islands carefully balances the requirement for farmers to prepare and implement FW-FPs with the actual risk to freshwater and freshwater ecosystems.

Integration with Essential Freshwater and the wider reforms

7. The Council recognises that the FW-FP regulations sit alongside other tools and regulatory instruments as set out in the Essential Freshwater Package. We also recognise that given the timeframe for establishing the FW-FP system, the outcome of the resource management reform will likely influence the implementation of FW-FP system in time.
8. The Chatham Islands Council (the Council) relies on Central Government funding to carry out its obligations as a regional council. This includes the development and notification of a freshwater plan to implement the Essential Freshwater Package. There is currently insufficient funding for this work to commence in the 2021/22 year. The Council is hoping to secure increased funding for the 2022/23 year. If this funding is not secured, it is highly unlikely that a freshwater plan can be notified by the end of 2024 as required.
9. The development of Freshwater Farm Plans (FW-FPs) also relies on the Council, in conjunction with tangata whenua, providing catchment context information documents for each catchment, to be used until the freshwater plan is notified. There is little information currently available on some of the Islands' catchments (particularly on Pitt Island) and engagement protocols between the Council and tangata whenua of the Islands have not yet been developed. As a result, it could take some time for the catchment context documents to become available, and for farm operators to be able to begin the preparation of their first FW-FPs.
10. Farmers on the Islands have no experience in developing farm plans and it would be beneficial for Central Government representatives to talk to the farmers directly and face to face about what the requirements will be.
11. We consider the FW-FP system will need to be fit for purpose in a future 'post-RMA' legislative environment.

12. We welcome continued engagement and discussion with MfE and MPI on the design of the FW-FP system and its integration with other components of Essential Freshwater and the wider reforms.

Part 2: Specific questions from the discussion document

Section 2.4 How the FW-FP system fits with regional council planning processes (p12)

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

13. We consider further clarity is required to better understand the relationship between the FW-FP system and regional council planning processes. These include the intent of the FW-FP system and its relationship with the roles, duties and responsibilities of regional councils in connection with the implementation of the other components of the Essential Freshwater Package and the content of regional plans, the management of cumulative effects, and enforceability.
14. In webinars undertaken during the consultation period, MfE has indicated that they see regional council plans or other methods as the primary mechanism for driving improvements in freshwater where required (e.g. in those catchments where the current state is not aligned to the freshwater outcomes established under the NPS-FM 2020). We welcome the opportunity to discuss further with MfE how the FW-FP system can complement and be consistent with regional plans or other methods that seek to drive changes in these circumstances.
15. The Chatham Islands Council (the Council) relies on Central Government funding to carry out its obligations as a regional council. This includes the development and notification of a freshwater plan to implement the Essential Freshwater Package. There is currently insufficient funding for this work to commence in the 2021/22 year. The Council is hoping to secure increased funding for the 2022/23 year. If this funding is not secured, it is highly unlikely that a freshwater plan can be notified by the end of 2024 as required.
16. The development of Freshwater Farm Plans (FW-FPs) also relies on the Council, in conjunction with tangata whenua, providing catchment context information documents for each catchment, to be used until the freshwater plan is notified. There is little information currently available on the Islands' catchments and also, engagement protocols between the Council and tangata whenua of the Islands have not yet been developed. As a result, it could take some time for the catchment context documents to become available, and for farm operators to be able to begin the preparation of their first FW-FPs. Tangata whenua on the Islands have very limited resources in terms of both people and funding.

Section 2.5 Role of tangata whenua in the FW-FP system (p12)

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

17. We support the direction in the discussion document to improve opportunities for tangata whenua involvement in the FW-FP system. We also acknowledge there can be capacity constraints for tangata whenua and agree that in the short term, when all farms are needing to develop their first plans at the same time, it is not appropriate to expect their advice on every FW-FP. To manage capacity constraints, we expect that tangata whenua involvement would be most efficient if embedded through constructs such as the catchment context, rather than in preparation of individual farm plans. However, until we have a clear understanding of what Te Mana o te Wai means for the Islands, we would not want to constrain tangata whenua involvement in the FW-FP system. We recommend the regulations allow for flexibility so tangata whenua can determine how they want to be involved in the FW-FP system without being precluded by the regulations.
18. We welcome support from Central Government to improve the capability and capacity of tangata whenua to be involved in the FW-FP process. We would support the provision of funding to tangata whenua to allow them to be involved to the extent they consider appropriate.
19. We note the protocols for engagement between the Council and tangata whenua on the Islands have not yet been developed and this will take time. The catchment context documents will need to be developed after these protocols are in place.
20. A significant proportion of the farmed land on the Chatham Islands is owned by multiple Māori landowners. Some of this land is owned by multiple landowners who are not resident on the Islands and have proven to be unable to be traced. This land is not currently farmed in any way. For rating purposes, the Council treat this land as if it were owned by the Council itself. Other Māori land is leased through the Hokotehi Moriori Trust or the Ngāti Mutunga o Wharekauri Iwi Trust to a farmer. In these cases it may be more appropriate for the landowners to be responsible for the preparation of FW-FPs than for the leaseholder to be responsible.

Section 2.6 A role for industry assurance programmes and other farm plan initiatives in delivering FW-FPs (p14)

Submission Question 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?

21. Some farmers on the Islands have formed a good relationship with Beef and Lamb New Zealand and would be interested in working with them on developing FW-FPs. The Council agrees that adapting existing industry programmes will provide a smoother transition for farmers and growers and build on the good practices that have already been identified. Beef and Lamb New Zealand are likely to be involved in developing such plans throughout New Zealand and this experience would ensure that FW-FPs on the Islands are of high standard and will be effective in protecting their unique environment.

22. We consider the proposed national body should review and approve industry programmes to ensure they satisfy both process and outcome requirements of the FW-FP system.

Submission Question 4: What are the likely impacts and cost implications of the proposed approach?

23. Adopting a national approach for the approval of industry programmes is considered more cost effective than approval being sought from each Council, particularly for those industry programmes already operating nationally.
24. The involvement of industry groups in developing FW-FPs on the Islands should make the process more cost effective for the farmers involved. The process could be streamlined by Beef and Lamb New Zealand representatives assisting with as many FW-FPs as possible on each trip to the Islands. Travel between mainland New Zealand and the Chatham Islands is expensive.

Section 2.8 Transition to a fully implemented FW-FP system (p16)

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

25. The Council agrees a phased or staged approach to the requirement for a FW-FP is appropriate as this recognises that in the short term there are likely to be capability and capacity constraints in the rural sector preparing FW-FPs and in the ability for regional councils to provide the required support.
26. The Council agree with the proposal that the first tranche of FW-FPs prepared would use the best local information and catchment context available at the time. The Chatham Islands face specific difficulties in developing catchment information. All monitoring of waterways is carried out under a contract that is funded by Central Government. There has been no monitoring to date on Pitt Island and there is little data to base any catchment information on. Engagement protocols with tangata whenua are yet to be developed. It is vital that tangata whenua have input into developing the catchment information and these protocols need to be developed first. As such, the Council seeks that the requirement for the Islands' farmers to develop FW-FPs occur later in the process after sufficient catchment data has been gathered and engagement protocols developed. It may work better to allow the first FW-FPs to be developed after the freshwater plan has been put in place by the Council.
27. The Council suggests that the Chatham Islands should be able to provide direction on the best implementation plan for their particular circumstances and get a bespoke solution approved by the Minister for implementation.

Section 3.1 Regulated outcomes (p20)

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

28. The Council agrees the challenge of the two options is striking a balance between making the regulated outcomes to be considered by FW-FPs general enough to be flexibly adapted for each farm and farm system, but specific enough to be measurable and enforceable. There will also be challenges in determining how FW-FPs will mesh with other regional council freshwater policies and objectives in a way that complements rather than conflicts with other regulatory tools.
29. The Council agrees the preferred option provides flexibility for the certifier to exercise professional judgement and tailor how the regulated outcomes and regional plan requirements can most appropriately be achieved. This would be undertaken within a framework of guidelines and practice standards to support the decision-making of the certifier. We agree the preferred option is appropriate.
30. The Council believes that a flexible approach would help to build acceptance by farm operators. The ability for regulated outcomes to be tailored to the context through professional judgement rather than specified in regulations is also considered to be more cost effective.
31. We also note the discussion document indicates that Central Government intends to develop guidance on how a farm operator and certifier can define ecosystem health as a regulated outcome. We agree this is necessary to enable identification and measurement of ecosystem health on the ground.
32. The Council notes that it will take time to develop outcomes at a catchment scale on the Islands as information on the state of some catchments is not readily available.

Submission Question 7: What are the likely impacts and cost implications of the preferred approach?

33. The Council considers that while the preferred approach allows more flexibility in setting regulated outcomes, this could prove more expensive for the Council than if outcomes were more prescribed in the regulations. The preferred approach will however likely be less expensive for landowners. Landowners on the Islands already face financial difficulties as a result of their isolation. The Council would support options that minimise extra expense to landowners.

Section 3.2 Farm planning (p22)

Submission Question 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?

34. The Council agrees the 'base information' contained in Appendix 1 is appropriate and should be expanded to enable such other information that may be required following co-design of regional plans with tangata whenua and any catchment specific issues identified in the content of regional plans. For example, a requirement to identify, as part of farm mapping, the presence of culturally significant sites that may be adversely impacted by farming activities. We recognise

that information required as base information or additional information required by a regional council should not impinge unnecessarily on privacy. For example, financial data or investment costs would be considered inappropriate for inclusion.

35. We also consider the reference to a “farm operator” as “the person responsible for preparing the FW-FP” in Appendix 1 may not be appropriate in all circumstances. A farm operator may be responsible for day-to-day management actions on a farm, but may not be responsible for more significant decisions such as those where investment is required. This is particularly important where Māori land is being farmed under a lease agreement with either of the iwi or imi trusts on the Islands. In such cases it may be more appropriate for the landowner to be involved in the development of the FW-FP.

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

36. The Council considers that there are likely privacy concerns with supplying the information required in Appendix 1 of the discussion document and that such information would need to be kept confidential.
37. We would support the ability for such information to be entered only once and be available for both FW-FP requirements and Greenhouse Gas Emission reporting.
38. The Council considers that this information could be difficult to supply for land that is owned by multiple Māori ownership. It can be difficult to trace the owners and supply all the relevant details.

Section 3.2 Risk/impact assessment (p23)

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

39. The Council agrees with the preferred option (option 1) and considers the minimum requirements specified in the regulations for a risk/impact assessment methodology should include (in addition to those stated in the discussion document) the need to assess the cumulative effects identified for the farm. In connection with this we consider the regulations and guidance should state that the choice of actions in response to the risk/impact assessment should seek to ensure cumulative risks are minimised.
40. Again, it should be noted that the development of catchment context documents by the Council and tangata whenua on the Islands will take time because not all the necessary information is readily available and engagement protocols are still to be developed.

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

41. Information to be included in the guidance to inform the risk/impact assessment should be informed by the principles of Te Mana o te Wai, industry agreed Good

Management Practices, and relevant contents of the regional plan to recognise the catchment context and the views of tangata whenua.

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

42. While individual farm by farm risk assessments will incur cost, it is considered the flexibility of the preferred option enables a targeted response to be developed that is more cost effective as a whole.

Section 3.2 Identifying actions to avoid, remedy or mitigate risks/impacts (p25)

Submission Question 13: Do you agree with our preferred option? If not, what is your preference?

43. The Council does not support the preferred option (option 3) in the discussion document. The Council's preference is option 1, as that provides more flexibility for individual farmers. We consider for both options further clarification is needed of the role of the certifier to ensure consistency in the implementation of freshwater outcomes. It will be essential that certifiers understand the unique issues facing Chatham Islands farmers.
44. It is critical that the actions the certifier considers should be undertaken on-farm align with those required by the catchment context and the regional plan.
45. For example, the discussion document indicates that FW-FP actions should be tailored to the farm system '*accounting for co-benefits and costs*'. Actions would be considered in the context of the '*individual farm, the farm objectives and the freshwater farm plan*'. In connection with option 1, the discussion document states that whether the action is '*suitable to the enterprise and/or receiving environment*' and '*cost effective*' should be considered alongside whether the action is '*effective*' and '*long lasting*'. Further clarification of how these considerations will apply is needed. For example, over what time frame will cost-effectiveness and affordability be considered, and what will this look like in the context of giving effect to Te Mana o te Wai.
46. The potential for disconnect between the actions identified by a certifier and the implementation of freshwater outcomes to achieve Te Mana o te Wai may also arise in relation to the identification of cumulative effects. A certifier would not necessarily be able to determine a farm's contribution to cumulative effects in a catchment as the certifier may not have knowledge of all actions being taken collectively by multiple FW-FPs.
47. The Council further considers the role of the certifier and the regulatory role of the Council requires clarification. For example, the regional plan framework may require additional provisions to be included within a FW-FP for an activity in a specific catchment to qualify as a permitted activity. It is unclear how a certifier external to the Council could require actions in a FW-FP that meet more stringent plan requirements. Similarly, if a condition of resource consent requires more

stringent provisions to be included within a FW-FP it is unclear what the role of a certifier and the regional council would be with regards to compliance and enforcement.

48. We note from the webinars undertaken during the consultation period that MfE envisages that regional council plans or other methods will be the primary mechanism for driving improvements in freshwater outcomes where required (e.g. those where the current state is outside of national bottom lines for particular attributes).
49. The Council would welcome the opportunity to discuss further with MfE how the FW-FP system can complement and be consistent with regional plans or other methods that seek to drive improvements in these circumstances.

Submission Question 14: What are the likely impacts and cost implications of the preferred options?

50. The Council agrees in general terms that less prescriptive approaches to the content of FW-FPs are preferable to ensure the most effective actions are prioritised.
51. The Council is concerned that the freshwater farm plan system will require the use, and separate engagement of; an advisor (to write some or all of the plan), a certifier (to confirm the plan meets requirements), and an auditor (to audit the farm for compliance with the certified freshwater farm plan), each requiring additional costs.

Section 3.2 Determining timeframes to implement the actions identified in the FW-FP (p27)

Submission Question 15: Do you agree with our preferred approach? If not, what is your preference?

52. The Council agrees that the timeframe to implement the actions identified in the FW-FP will vary depending on the circumstance. There are capacity and capability constraints in the rural sector, especially on the Islands, that mean the scheduling of actions will need to recognise the availability of some services needed to implement certain actions.
53. We acknowledge the message from MfE during the recent webinars, that the drive for change to meet freshwater outcomes as required by NPS-FM 2020 will need to come from regional plans and other methods. The Council therefore seeks further clarity on the intended role of the certifier balancing the needs of 'reasonableness' and 'reasonable and affordable' to the farm operator and giving effect to Te Mana o Te Wai and the hierarchy of obligations, particularly where significant investment is involved.
54. We consider that a robust and transparent accreditation system will be essential in these circumstances to ensure the wider community has confidence in the FW-FP system.

55. There is also a need for further clarity on how the roles of certifier and the regional council will interact to ensure adequate management of cumulative effects in the catchment context, particularly where the certifier has not been involved in all other FW-FPs in the catchment. This also applies to the relationship of the certifier with the resource consent process.
56. We note that guidance would be provided for how to apply the reasonableness test and that the FW-FP system includes other methods intended to ensure the role of the certifier is robust and these may provide further clarity around these matters.

Section 3.3 Process for accrediting and appointing certifiers in the FW-FP system (p28)

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

57. The Council agrees with the preferred option (option 1) whereby certifiers would be nationally accredited and appointed by regional councils on the basis of their knowledge and understanding of the regional and catchment context. The proposal for regional councils to also develop, or input into, the regional assessments is supported. The Chatham Islands Council does not have the resources necessary to develop our own regional accreditation and appointment process as would be required under Option 2.
58. We consider it important that the benefits of accreditation (i.e. the ability to offer services within a FW-FP system) are supported by consequences for not upholding the expected standards, such as the ability to lose accreditation. This will also apply to the audit component of the system.

Submission Question 17: What are the likely impacts and cost implications of the preferred approach?

59. The Council has very limited financial resources because of a very low rating base of 600 residents. We are not in a position to be able to set up an accreditation scheme for certifiers. This will need to be done and funded at a national level.

Section 3.3 More detail around the role of the certifier (p29)

Submission Question 18: Do you agree with the following assumptions? If not, why not?

- a) ***In most circumstances certifiers will need to 'walk the farm'.***
- b) ***Certifiers can call on expert advice for matters outside their areas of expertise.***
60. The Council considers that 'walking the farm' is necessary to properly identify risks/impacts and actions. In view of the potential for constraints on the capacity of certifiers to undertake this, and the expense of bringing qualified certifiers to the Islands, it is considered that for low risk farms a mechanism similar to that used by a chartered professional engineer could be available. This would allow suitable

other persons to walk the farm under the certifier's direction while still requiring the certifier to sign off and take responsibility for the plan.

61. The scope of FW-FPs will require a certifier to have knowledge on a range of specialised topics (planning, farm systems, environmental monitoring, mahinga kai etc.). We do not consider that one single person would necessarily hold such diverse knowledge to a sufficient level and therefore we support certifiers being able to call on expert advice to support their decisions.

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

62. The Council agrees with the preferred option (option 1). We acknowledge that there are capability and capacity constraints in the rural sector, and Option 1 provides a mechanism for addressing this.
63. The Council agrees that the risk of 'client capture' can be adequately mitigated through robust processes around certification such as national accreditation, quality assurance processes and professional standards.

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

64. The Council do not consider there should be a limit on the number of times a certifier can re-certify a FW-FP because of the capacity and capability constraints within the rural sector, especially on the Islands. If the accreditation process, quality assurance and professional standards are robust and transparent, then there should be no need to impose a limit on the number of times a certifier can certify a plan.

Submission Question 21: What are the likely impacts and cost implications of the preferred approach?

65. We agree with the discussion document that Option 1 would be more cost effective for farmers on the Islands, especially given the expense of bringing advisors and certifiers over from mainland New Zealand. Bringing only a certifier would be a significant saving. The ideal position would be that Beef and Lamb New Zealand would employ certifiers that could then help develop and certify FW-FPs on the Islands.

Section 3.3 Engaging and paying for a certifier (p31)

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

66. The Council considers that farmers on the Islands are not in a financial position to pay for certifiers and that this function should be paid for by the Council. In effect, this would be funded by Central Government through its contract with the Council to carry out the functions of a regional council.

67. Further clarity is required here as to the certification role; in other words, who the certifier is working for. If certification is a *compliance function* for the council/national body (i.e. to determine whether the FW-FP is compliant as per Part 9A), then the council or the national body should manage engagement and payment. We propose that because Part 9A signals certification is a *compliance function*, certification should be conferred by a national body through its representative (certifier), and paid for by Central Government.

Submission Question 23: What are the likely impacts and cost implications of the preferred approach?

68. Farmers on the Islands are under significant financial pressure as a result of isolation and the associated costs of importing goods and exporting stock. The Council has a very low rating base, with a population of only 600 people. It is vitally important that the FW-FP process is carried out at the lowest possible cost to local farmers and the Council.

Section 3.3 Regular review and re-certification (p31)

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

69. The Council does not agree with the preferred option. We would prefer that rather than undertaking a re-certification process every 3 or 5 years, it is only required where changes have taken place that would trigger the need for a new FW-FP. Farming on the Islands is not intensive, and unless a particular farm undergoes a change in system or significantly increases its stocking rates, a farm plan could remain in place indefinitely with regular auditing to ensure that the farm remains compliant. Requiring recertification every 3 or 5 years would inflict an unnecessary cost on local landowners.

70. It is noted that a new FW-FP would be required where substantive changes take place in all other cases (this is discussed under Questions 26 and 27).

Submission Question 25: What are the likely impacts and cost implications of the preferred approach?

71. We consider the cost of re-certification in line with the preferred approach of every 3-5 years to be very high for lower risk farms where no substantial change is occurring in practice from one year to the next, as is the case on the Islands.

Section 3.3 When a farm would need a new FW-FP, when an addendum would be needed, amending details in a FW-FP (p32)

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

72. The Council agrees with the proposals in the discussion document. We also consider a certifier or auditor should have a role alongside regional councils to ensure these processes are carried out. We note that under the proposals, regional

councils would not hold copies of the certified FW-FPs and so would be reliant on the honesty of farmers to identify when a new plan or addendum was required and the audit process amended.

Submission Question 27: What are the likely impacts and cost implications of the preferred approach?

73. We note that if the certifier is also to act in the role of farm advisor as per MfE's preferred option (Question 18-21), then you would expect that changes to a farm system that trigger the need for a new farm plan would be made based on the advice of the certifier (or experts they have called upon for support) already involved. They should therefore be well placed to update any existing FW-FP.

Section 3.3 Dispute resolution (p33)

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

74. The Council agrees with the preferred approach.

75. The Council considers the functions, powers, and duties of all actors in the FW-FP system needs to be clearly defined in the regulations. This includes whether the FW-FP is operating within a resource consent process or not. This will clarify the authority of the certifier within the FW-FP process in relation to issues of authority, their role as a regulator, the role of other relevant regulators such as the Council, and associated issues of enforceability and cost recovery. For example, further clarity is needed around issues such as if the certifier seeks further information and the farmer chooses not to engage or provide the requested information. In addition, if a certifier's decision is not accepted by the farm operator, can the farm operator simply appoint another certifier, or would this trigger the dispute resolution process?

Submission Question 29: What are the likely impacts and cost implications of the preferred approach?

76. The Council notes that the certifier acting as a farm plan advisor in addition to a certifier is likely to add complexity to the disputes process due to the breadth of the role of the certifier.

Section 3.3 Complaints process (p33)

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

77. The Council agrees with the preferred approach, noting that this is appropriate if accreditation occurs nationally as per the preference in Question 16. The Chatham Islands Council does not have sufficient resources to run the disciplinary process itself.

78. We suggest that the national accreditation body could also run some form of national moderation process through randomly selecting a range of FW-FPs to gauge consistency in quality across certifiers. This could provide another element of robustness and confidence in the system.

Submission Question 31: What are the likely impacts and cost implications of the preferred approach?

79. The Council notes that the certifier acting as a farm plan advisor in addition to a certifier is likely to add complexity to the complaints process due to the breadth of the role of the certifier.

Section 3.3 Removal of accreditation (p34)

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

80. We recommend that a form of national or regional moderation be used where a sample of FW-FPs could be taken and assessed regularly to help provide a benchmark of quality and consistency of certifiers. Regional councils do not have access to farm plans themselves so would be limited in their ability to raise concerns about a certifier's quality of work without such a mechanism.

Submission Question 33: What are the likely impacts and cost implications of the preferred approach?

81. We suggest that fees for becoming accredited could be used to fund the national accreditation service including the disputes resolution, complaints, and quality control aspects.

Section 3.4 Process for accreditation and appointment of auditors (p34)

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

82. The Council agrees with the preferred option, as we consider it may allow for efficiencies and integration with other auditing processes (e.g. industry requirements) on farm.

Submission Question 35: What are the likely impacts and cost implications of the preferred approach?

83. Provided the auditor role is focused on checking that actions have been undertaken as agreed with the certifier, then the use of auditors accredited by existing organisations, like Beef and lamb New Zealand, should reduce costs. It could also provide opportunity for auditing of FW-FPs to be integrated with other audit processes taking place on farm.

Section 3.4 Determining audit frequency (p35)

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

84. The Council does not support the preferred option. We note that the proposed audit frequency equates in the order of 1-2 audits per certification cycle. This is potentially a significant cost to farm operators that are compliant. We consider the frequency of audits should be based on compliance performance rather than set intervals. This would better provide proportionality and an incentive for farm operators to invest in achieving compliance in support of freshwater outcomes than the costs of the audit process.
85. It is likely that effectiveness of on-farm actions are not able to be observed on the day(s) of the audit. To support compliance decision-making we consider that the robustness of the audit process would be improved by requiring evidence to be provided of the actions that have taken place on the farm over the relevant period. This could be assisted by the regulations stating that certifiers are to identify the information/evidence that farm operators will need to collect for the audit process.

Submission Question 37: What are the likely impacts and cost implications of the preferred approach?

86. We believe the preferred approach in the discussion document will be disproportionality costly for compliant and lower risk farms (such as those on the Islands) due to the high frequency of the audits. We suggest that a frequency that is based on performance would lead to audit costs more proportional to the risk posed.

Section 3.4 Engaging and paying for an auditor (p36)

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

87. The Council does not agree with the proposed approach. as noted earlier, farmers on the Chatham islands face financial difficulties as a result of their isolation. If their FW-FPs need to be audited as required by Central Government, then this process should be funded by Central Government.

Submission Question 39: What are the likely impacts and cost implications of the preferred approach?

88. We consider that the preferred approach will be too costly for farmers on the Islands.

Section 4 Quality assurance of FW-FPs (p37)

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

89. The Council supports the proposal for quality assurance to be undertaken by a national body. We reiterate our support for quality assurance to be undertaken

alongside robust accreditation processes to ensure professional standards are maintained and to provide confidence in the system.

90. We agree with the proposed approach to quality assurance of FW-FPs whereby they would be administered and coordinated nationally with checks undertaken by regionally based assessors. This has the benefit of ensuring consistency across the country while recognising the need for regional context and knowledge.
91. We also support regional councils having discretion to trigger the quality assurance process such as in the event they identify concerns relating to FW-FPs. We recognise there is further work to do to develop the details of this process and we are willing continue to engage with MfE and MPI on this.

Submission Question 41: What should the triggers be for quality assurance checks?

92. Triggers should be linked into the disputes resolution and complaints process. In our responses to Questions 28 and 30 we suggested a moderation system could be used to check a randomly selected sample of FW-FPs for consistency regionally and nationally. Regional councils should also be able to raise concerns regarding quality across their regions.

Submission Question 42: What are the likely impacts and cost implications of the proposed approach?

93. We note that there is limited detail provided regarding how any national body would be funded, what governance structures would be in place, how it would perform its duties, and how it would relate to a national accreditation body. We consider the role of these national bodies (both quality assurance and accreditation) to be crucial for ensuring that the FW-FP system is robust and well supported. These national bodies should be funded by Central Government.

Section 5 Enforcement mechanisms (p38)

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

94. The Council considers the infringement penalties are appropriate to the proposed offences. We also note the general position in the RMA that allows regional councils the discretion not to impose an infringement fee for non-compliance.
95. The Council is in a difficult position in relation to enforcement actions in such a small community and with very limited resources. The Council's financial position could easily be threatened if such enforcement actions were challenged through the court system.

Section 6.1 Phasing and staging (p39)

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

96. We agree a phased or staged approach to the requirement for a FW-FP to be prepared is appropriate and recognises in the short term there is likely to be capacity limitations in the rural sector and regional councils. We do not support the preferred option. We would support Option 2 where higher risk farms were prioritised. Farms on the Islands are low risk with no dairy farming and low stock numbers. Areas of New Zealand where freshwater bodies are at greater risk should be prioritised to ensure maximum benefit can be realised from the FW-FP process as quickly as possible.
97. The Council would like the Islands to be one of the final areas where FW-FPs are required. This is because the Council has very limited capacity to develop catchment context documents, the risk to the Islands' waterways is relatively low due to low stocking rates, and there is a need for time to gather more data on the state of the Islands' waterways.
98. We note that Question 5 of the discussion document considers the appropriate content of FW-FPs during the transition period and is a related consideration.

Submission Question 45: Should we explore whether it should be possible for farmers and growers to opt into the FW-FP system?

99. It is unlikely that farmers on the Islands would make use of an option to prepare FW-FPs before they are required to do so.

Submission Question 46: What are the likely impacts and cost implications of the preferred approach?

100. There would be cost savings for Chatham Island farmers if multiple farms require FW-FPs at the same time. This would save costs in bringing a certifier to the Islands.

Section 6.2 Understanding catchment values and context (p40)

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

101. The Council agree this approach will assist with understanding catchment values and context alongside the community engagement that will form part of other regional council planning processes.
102. The Council would like to see direct involvement of Central Government in informing and educating farmers about the requirements of the reforms. Ideally this would take place on the Islands rather than remotely because internet availability on the Islands is not reliable and it would be beneficial for Central Government representatives to experience the local conditions and likely impact of the reforms on local farmers.

Section 7.1 Collection of data from FW-FPs (p41)

Submission Question 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?

103. The Council considers the proposed indicator areas for evaluating the difference the freshwater farm planning system is making to water quality and ecosystem health needs to be based on sound principles to ensure the indicators that are reported align to the catchment context and reflect the freshwater outcomes and priorities relevant to the farm. Indicators should also not be burdensome to measure and report on for either farmers or councils.
104. Experiences across other government sectors has shown the anticipated benefits of centralisation (e.g. reduced costs, improved efficiency) are not always realised. These challenges are even greater when considering the nature, diversity and complexity of issues faced by local government.

Submission Question 49: What other information should we consider, and why?

105. The Council considers local authorities are best placed to understand issues facing regions and districts, and the types of tools and systems required in response.
106. The Council would welcome the opportunity to continue to work with the Ministry for the Environment and the Ministry for Primary Industries to further investigate the most appropriate information to collect from FW-FPs for environmental reporting and for compliance, monitoring and enforcement purposes.

Submission Question 50: What are the likely impacts and cost implications of this approach?

107. Indicators should not be burdensome or costly to measure and report on, for either farmers or councils.

Section 7.2 What regional councils report publicly (p42)

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

108. The Council does not consider that the privacy of farm operators can be fully protected by aggregating data. In such a small community, it will not be possible to aggregate data in a way that would keep individual farm data confidential. The community will be able to infer what is happening on individual properties.

Submission Question 52: Is there any information in a FW-FP that you would not want to be shared publicly? For what reason?

109. No information not specifically required to understand and evaluate the FW-FP system and its effectiveness should be captured. No private details or commercially sensitive information should be collected.

