



# Cabinet Legislation Committee

## Minute of Decision

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### Resource Management Act 1991 Freshwater Farm Plan Regulations

**Portfolio**                      **Agriculture / Environment**

On 1 June 2023, the Cabinet Legislation Committee:

- 1        **noted** that Freshwater Farm Plans (FW-FPs) are a core part of the government's commitment to improving freshwater health and management through the Essential Freshwater work programme [CAB-18-MIN-0296];
- 2        **noted** that FW-FPs will help protect and restore New Zealand's freshwater by assessing each farm's potential impact on freshwater and developing a tailored set of actions to address these, in light of the catchment in which each farm sits;
- 3        **noted** that Part 9A of the Resource Management Act 1991 (RMA) establishes FW-FPs as a new mandatory and enforceable regulatory tool that would support farmers and their advisors to implement actions that address on-farm risks to freshwater outcomes;
- 4        **noted** that in July 2022, the Cabinet Environment, Energy and Climate Committee agreed to the core policy of the Freshwater Farm Plan (FW-FP) system [ENV-22-MIN-0025];
- 5        **noted** that regulations made under section 217M within Part 9A have been developed to:
  - 5.1      set out obligations for the preparation, certification, audit and enforcement of FW-FPs;
  - 5.2      outline process and management practice requirements to support farm operators, certifiers and auditors to perform their duties;
- 6        **noted** that in May 2021, the Cabinet Economic Development Committee agreed that the Freshwater Farm Plan requirements and guidance would be included in the Integrated Farm Planning Framework once the Freshwater Farm Plan system has been established [DEV-21-MIN-0093];
- 7        **noted** that FW-FPs will be a module within the broader Integrated Farm Planning Programme;

### Amendment to previous Cabinet decisions on freshwater farm plan regulations

- 8        **noted** that in July 2022, the Cabinet Environment, Energy and Climate Committee (ENV) agreed to the commencement of drafting the FW-FP regulations 2023 under Part 9A of the RMA and agreed to core parts of the FW-FP system [ENV-22-MIN-0025];

- 9 **noted** that in response to stakeholder feedback received during exposure draft consultation, some changes have been proposed to improve clarity and assist with implementation;
- 10 **agreed** to extend the timeframe for a farm operator to submit a FW-FP to a certifier from 12 months to 18 months;
- 11 **agreed** that the following situations will require recertification within 12 months:
  - 11.1 where a farm has significant new inherent risks;
  - 11.2 where land that is subject to different catchment challenges, values and context is added to the farm operation;
- 12 **agreed** that where only minor changes have occurred to part of the farm’s land or activities, only that part of the farm requires recertification
- 13 **agreed** to amend the definition of Catchment Context, Challenges and Values (CCCV) for clarity and that CCCV information could include (without limitation):
  - 13.1 existing local area information: (e.g., landforms, soil data, climate data, freshwater data, freshwater bodies, priority contaminants, significant sites to the community, significant species or ecosystems);
  - 13.2 identified cultural matters of importance to tangata whenua;
  - 13.3 freshwater objectives, policies, rules in relevant regional policy statements and operative regional plans;
  - 13.4 relevant freshwater matters in planning documents recognised iwi authority and lodged with regional councils;
  - 13.5 National Policy Statement for Freshwater Management 2020 and action plans made by regional councils;
  - 13.6 secondary legislation under the RMA relevant to the management of freshwater or freshwater ecosystems;
- 14 **noted** that in July 2022, ENV agreed that the following will be infringement offences with their corresponding fee [ENV-22-MIN-0025]:

Proposed Infringement	Proposed fee
Farm operator does not have a certified farm plan within the specified timeframe	\$1,500
Farm operator does not have an audited farm plan within the specified timeframe	\$1,500
Farm operator does not seek recertification of their freshwater farm plan in line with the recertification triggers	\$1,500
Farm operator does not implement actions in line with the agreed timeline	\$1,500
Farm operator does not lodge an addendum or update details	\$500

- 15 **agreed to recommend** that Cabinet:
- 15.1 rescind the infringement offence related to where a ‘farm operator does not lodge an addendum or update details’ from the infringement offences listed in the FW-FP regulations;
- 16 **noted** that the Minister of Agriculture and the Minister for the Environment have jointly finalised a competency framework for the appointment of certifiers and auditors;
- 17 **noted** that the Minister for the Environment has also, in consultation with the Minister of Agriculture, instructed the Parliamentary Counsel Office on a number of minor and technical changes to the regulations;
- 18 **noted** that Part 9A establishes the core requirement for farm operators to have a certified FW-FP within the timeframe prescribed by the regulations, as well as containing the regulation making powers to specify the particular requirements for farm plans;
- 19 **noted** that Part 9A of the RMA came into force on 30 June 2020, but does not apply to a region, district or part of New Zealand unless activated by an Order in Council made under section 217C of the RMA;
- 20 **authorised** the submission to the Executive Council of the Resource Management (Freshwater Farm Plans) Regulations 2023 [PCO 25033/9.0];

#### **Order in Council to “switch on” Part 9A required**

- 21 **noted** that section 217C requires that before making a recommendation under subsection (2) the responsible Minister must:
- 21.1 be satisfied that regulations are necessary to achieve the purpose of this Part in the specified district, region, or part of New Zealand;
- 21.2 consult with the Minister of Agriculture;
- 22 **agreed** that Part 9A is initially switched on in two regions – Southland and Waikato;
- 23 **noted** that the Minister for the Environment considers that the requirements outlined above have been met for Southland and Waikato;
- 24 **noted** that the effect of the region-specific Order in Council commencing Part 9A means no regions other than Waikato and Southland will be required to have a certified FW-FP within the timeframe prescribed by the regulations until a further Order in Council is made;
- 25 **noted** that the policy intent is to phase rollout to regions, ensuring there is sufficient regional capability to implement the regulations;
- 26 **noted** that the Ministry for the Environment, in consultation with the Ministry for Primary Industries, is currently working with regional councils to finalise and further specify the order and rollout commencement dates of future regions to be included in the FW-FP system;
- 27 **noted** that the Minister for the Environment intends to return to Cabinet before the end of 2023 to outline a phasing approach to switch on Part 9A in other areas;
- 28 **noted** that the intent is to have all 16 regions across New Zealand included in the FW-FP system by the end of 2025;

- 29 **authorised** the submission to the Executive Council of the Resource Management (Application of Part 9A—Freshwater Farm Plans) Order 2023 [PCO 25529/5.0];
- 30 **noted** that the Resource Management (Application of Part 9A – Freshwater Farm Plans) Order 2023 comes into force on 1 August 2023;

### Minor Changes

- 31 authorise the Minister for the Environment and Minister of Agriculture to make minor textual, editorial, and technical changes to the Resource Management (Freshwater Farm Plans) Regulations 2023 and the Resource Management (Application of Part 9A – Freshwater Farm Plans) Order 2023 prior to final Cabinet decisions.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Kiri Allan  
Hon David Parker  
Hon Kieran McAnulty (Chair)  
Tangi Utikere, MP (Chief Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

Proactively released