

Memo

File No: 23 10 12
Date: 7 May 2015
To: Tony Quickfall
From: Justine Young
Subject: **Assessment of Collaborative Stakeholder Group (CSG) policy selection criteria against the RMA**

As requested here is the policy team analysis of RMA and CSG criteria.

Why this is important:

- S32 sets out the range of policy options that are put up for consideration.
- Other RMA regional plan sections provide the framework around what can go s32. Some sections (e.g. s69 and 70) are especially specific and relevant to Plan Change 1.
- These sections (and s5) in effect determine the scope of the policy options that make it through to s32 evaluation.
- WRC and the CSG plan drafting process will be tested on all RMA sections through submissions and almost certainly through the env court.
- Part of the policy analysis role is to make sure the s32 policy options fall within scope of the RMA policy-relevant sections.

Project Scope

In 2014 the CSG confirmed the task ahead by fine-tuning an existing WRC focus statement for the project. This is:

To come up with limits, timelines and practical options for managing contaminants and discharges into the Waikato and Waipa catchments to ensure our rivers and lakes are safe to swim in and take food from, support healthy biodiversity and provide for social, economic and cultural wellbeing.

The CSG selection criteria are wider in scope than the RMA policy-relevant sections. Instead, the CSG criteria are developed within the project scope which includes RMA and non RMA elements, such as Vision and Strategy.

The four key drivers for this project are:

1. legal requirements

- Central government’s *NPS for Freshwater Management 2014* requires regional councils to manage water quality by setting objectives, limits and targets for all water bodies
- *Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa* must be given effect to by regional (and district) plans within the rivers’ catchments. It applies to the rivers and their catchments and focuses on peoples relationship to the rivers and restoring and protecting the rivers.

2. water quality monitoring results

WRC’s interpretation of its water quality monitoring data

3. policy effectiveness reviews

- Office of the Auditor-General’s 2011 report on freshwater quality highlighted more is needed to manage the risks to water quality in the Waikato
- 2011 policy effectiveness review of the regional plan suggests managing the effects of agriculture on water bodies is the most important matter to deal with, and that the plan’s provisions are not enough to address the ongoing pressures.
- review of the extent to which regional plan gives effect to the Vision and Strategy advises that the regional plan will require amendments to give effect to the Vision and Strategy.

4. stakeholder expectations

- Water pollution is consistently the most important environmental issue for the Waikato community
- The rivers are a taonga to iwi, who have long been concerned about their management. This project plays a part in fulfilling iwi aspirations for the Waikato River
- Industry expects to be able to continue to use the rivers, and for the rivers to provide for future economic opportunities.

CSG draft PSG (as at 24 April 2015)	RMA						Outside the RMA
	Section 5	Section 6	Section 7	Section 8	Section 30	Section 66- 70	

<p>Gives effect to the Vision and Strategy Does the policy give effect to the Vision and Strategy for the health and wellbeing of the Waikato and Waipa rivers?</p>							<p>This overview criteria is intended to ensure the policy options considered comply with everything in the V&S. The subsequent criteria then could be seen as helpful detail around some of the aspects within the V&S.</p> <p>The interpretation of the V&S is still being discussed within and outside WRC, WRA and river iwi who initiated the V&S are looked to, to provide guidance his has to be within the overall project scope CSG is clear that other projects over time will also assist to implement the V&S.</p>
<p>RMA (including the NPS Freshwater Management)</p> <p>Does the policy:</p> <ul style="list-style-type: none"> • comply with the RMA (including the purpose of the Act)? • take account of existing policy 	<p>This overview criteria is intended to ensure the policy options considered comply with everything in the RMA. The subsequent criteria then could be seen as helpful detail around some of the aspects within the RMA.</p> <p>Section 66 is particularly clear that Matters to be considered by regional council (plans)</p> <ul style="list-style-type: none"> • (1) A regional council must prepare and change any regional plan in accordance with— <ul style="list-style-type: none"> • (a) its functions under section 30; and • (b) the provisions of Part 2; and 						

frameworks?							
Provides for Māori aspirations Does the policy: <ul style="list-style-type: none"> provide for Māori to retain and use their taonga in accordance with their tikanga and kawa? give effect to Māori environmental, economic, cultural and social relationships with land and water? 	Yes, bullet 2 fits with Section 5 2) as it enables people and communities to provide for their social, economic, and cultural well-being	Yes both points are well within 6e) is the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:	Section 7a kaitiakitanga – local hapu and mana whenua looking after water and riparian areas near water	Yes within scope of s8 principle of rangatiratanga			Objective
Gives positive social and community benefits Does the policy: <ul style="list-style-type: none"> minimise social disruption and provide social benefit? enhance people's use of the river? take account of unique features and benefits? result in outcomes people can identify 	Yes, bullet 2 and 3 and 4 fits with Section 5 2) as it enables people and communities to provide for their social, economic, and cultural well-being Yes, Last bullet is simply	Yes, bullet 2, 3, 4 are well within achievement of 6a and b - the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and			Yes well within scope of council functions s 30(1) (c) control of the use of land for the purpose of ... (i) soil conservation: (ii) the maintenance and enhancement of the quality of water in water bodies		

<p>with, own and feel proud of?</p> <ul style="list-style-type: none"> • achieve the range of values identified? 	<p>process of following NPS-FM have to do this</p>	<p>other taonga & the protection of historic heritage from inappropriate subdivision, use, and development:</p>					
<p>Acceptable to the wider community Does the policy:</p> <ul style="list-style-type: none"> • achieve sound principles for allocation? • recognise efforts already made? • exhibit proportionality (those contributing to the problem to contribute to the solution)? 	<p>This is an overall judgment of social and economic wellbeing as per Section 5 2) Bullet 2 recognises sunk costs of assets and is an overall economic wellbeing</p>				<p>Recent changes to RMA have made it very clear that plan change 1 is able to allocate rights to discharges Section 30 (4) states A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way..</p>	<p>The RMA section 68 (5) makes it clear that rules can be specific to area, effect and timeframe – which allows the CSG to determine different management in different areas</p>	
<p>Optimises environmental, social and economic outcomes Does the policy:</p> <ul style="list-style-type: none"> • aim for cost-effective solutions? • provide confidence and clarity for current and future investment? • provide realistic timeframes for 			<p>Bullet 1, 3 is closely aligned to Section 7(b) the efficient use and development of natural and physical resources: Because total</p>			<p>In applying this criteria, the overarching RMA criteria applies and also Section 70 which assists with a 'bottom line' on what can be</p>	

change?			cost to community will depend on how that cost is phased over time and whether existing investments are recognised.			allowed in a plan for permitted activities for s15(1)(b) discharges	
<p>Achieves the restoration and protection of native habitats and biodiversity</p> <p>Does the policy:</p> <ul style="list-style-type: none"> • support resilient freshwater ecosystems? • support interconnectedness and connectivity between land and water? • support healthy populations of indigenous plants and animals? 	Section 5 2) b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems	All three bullets are strongly aligned and are explanations of what 6 c might mean in practice - the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:			Yes well within scope of council functions s 30(1) (c) control of the use of land for the purpose of ... (i) soil conservation: (ii) the maintenance and enhancement of the quality of water in water bodies ... (iii) the maintenance and enhancement of ecosystems in water bodies and coastal water		
<p>Realistic to implement, monitor and enforce</p> <p>Is the policy:</p> <ul style="list-style-type: none"> • able to be measured, 			Bullet 1, 3 is closely aligned to Section 7(b)			The RMA section 68 (5) makes it clear that rules can be	

<p>monitored and reported?</p> <ul style="list-style-type: none"> • implementable and technically feasible? • administratively efficient? 			<p>the efficient use and development of natural and physical resources: Because total cost to community will depend on how that cost is phased over time and whether existing investments are recognised.</p>			<p>specific to area, effect and timeframe – which allows the CSG to determine different management in different areas</p>	
<p>Allows for flexibility and intergenerational land use Does the policy:</p> <ul style="list-style-type: none"> • foster innovation? • encourage positive actions being taken? • allow for change and review as new information and issues arise? • provide flexibility of future land use (including Treaty settlements land and multiple Māori owned land)? • take account of 			<p>Bullet 1, 3 is closely aligned to</p> <p>Section 7(b) the efficient use and development of natural and physical resources: Because total cost to community will depend on how that cost is phased over</p>		<p>Yes within scope of s8 principle of rangatiratanga</p>	<p>The RMA section 68 (5) makes it clear that rules can be specific to area, effect and timeframe – which allows the CSG to determine different management in different areas</p>	

<p>complexity and difference between farming systems and farm enterprises?</p>			<p>time and whether existing investments are recognised.</p>				
<p>Supported by clear evidence Does the policy:</p> <ul style="list-style-type: none"> • take an evidence-based and knowledge-based approach (including Mātauranga Māori)? • transparently show the costs for meeting the outcomes? • prioritise efforts to achieve catchment solutions? • set transparent limits and definitions? 		<p>Bullet 1 is strongly aligned with 6 e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:</p>	<p>Bullet 3 is closely aligned to Section 7(b)</p>	<p>Yes bullet 3 well within scope of s8</p>	<p>Yes well within scope of council functions s 30(1) (c) ccontrol of the use of land for the purpose of ... (i) soil conservation: (ii) the maintenance and enhancement of the quality of water in water bodies ... (iii) the maintenance and enhancement of ecosystems in water bodies and coastal water</p>	<p>The RMA section 68 (5) makes it clear that rules can be specific to area, effect and timeframe – which allows the CSG to determine different management in different areas</p>	