

Report to the Collaborative Stakeholder Group – for approval

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Date: 21 April 2016
To: Collaborative Stakeholder Group
From: Chairperson – Bill Wasley
Subject: Update to CSG from Plan Drafting Sub-group
Section: Agreement and Approval

Disclaimer

This report has been prepared by Waikato Regional Council policy advisors for the use of Collaborative Stakeholder Group Healthy Rivers: Wai Ora Project as a reference document and as such does not constitute Council's policy.

Purpose

This report outlines the changes to Plan Change 1 as a result of discussions at meetings held from 31 March to 19 April 2016 by the plan drafting sub-group (referred to throughout as the sub-group).

Recommendations:

1. That the report [Update to CSG from Plan Drafting Sub-group] (Doc #3771904 dated 21 April 2016) be received, and
2. That the Collaborative Stakeholder Group (CSG) confirm that:
 - a. The outline of changes from Plan Drafting Subgroup meetings on 31 March, 7th, 13th and 19th April in this report, and the verbal update at CSG 28-29th of the meeting on 27th April, provides sufficient information for the CSG to direct staff to finalise Plan Change provisions (objectives, policies, rules and non regulatory methods).
 - b. The CSG will consider and make any changes to the Plan Change provisions, at their next CSG meeting on 9 May.

Background

The plan drafting sub-group (the sub-group) terms of reference¹ was to guide staff in drafting the plan change on behalf of the CSG.

¹ Terms of Reference for CSG Plan Drafting subgroup. DM#3728057

The sub-group has met a number of times since the last CSG meeting on 4th-5th April and has concentrated on describing the intent of the Plan Change in the introductory section, and making choices about wording of objectives and policies and non regulatory methods in the Plan Change, and consequential changes to the Waikato Regional Plan.

Link with other sub-groups

The plan drafting process was intended to occur once CSG had settled the intent and outline of the objectives, policies, methods and rules. Due to the significance of some topics, more time has been needed to settle their intent and outline. In the last six weeks, three sub-groups have been working in parallel. In addition to plan drafting, the Farm Environment Plan Sub-group and the Maori Land Sub-group have been investigating matters on behalf of the CSG. The Technical Leaders Group is also continuing to work on topics related to how objectives, policies and rules should be drafted. As a result, the CSG may have to assimilate changes at its next two meetings, before it can finalise wording for the Plan Change.

Updated Plan Change template

This report summarises the sub-group recommended changes to the Plan Change template as a result of meetings from 31 March to 19 April. The sub-group meeting on Wednesday 27 April will be reported verbally at CSG on 28th-29th April.

Appendix 1 contains details of the changes to the Plan Change template, including those from the 19 April meeting. Key points to note are:

- The revised Background and Explanation includes a new subsection *Full achievement of the Vision and Strategy will be intergenerational* which gives context to the staged approach, and interim targets in the first 10 - 15 years.
- *Outcomes* are now incorporated into the 80 year (long term) objectives
- Long and short term objectives have been rewritten and require CSG approval
- Policies 1-13 have been rewritten and require CSG approval
- Glossary has been populated, but is dependent on the final text

Bundling

Due to the short timeframe, preliminary legal and implementer's advice was provided to the sub-group initially². The sub-group heard that bundling was not required by the Resource Management Act, case law provided guidance on when to bundle, and that there is no legal justification for bundling in the scenario provided by the sub-group. However, the sub-group decided a method was needed to ensure bundling did not occur. A formal legal response³ to the question of bundling has been now prepared and reiterates the previous advice.

Items referred back to CSG

The plan drafting sub-group identified topics for referral back to the full CSG because of the nature, scale or implications of the decisions. The items are:

- Water management classes
- Standards
- Consent duration

² Preliminary legal/implementers advice regarding consent bundling. DM#3753948

³ PC1 – Bundling. DM#3772040

Appendix 1 Plan drafting sub-group changes to the Plan Change template, including draft changes based on discussion at the 19 April meeting.

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References

Consequential changes to the Waikato Regional Plan – brief outline for plan drafting subgroup. DM#3770616

Notes of Plan Drafting subgroup meeting No. 1 31 March 2016 DM#3756221

Notes of Plan Drafting subgroup meeting No. 2 7 April 2016 DM#3763121

Notes of Plan Drafting subgroup meeting No. 3 13 April 2016 DM#3769142

Notes of Plan Drafting subgroup meeting No. 4 19 April 2016 DM#3774605

Preliminary legal/implementers advice regarding consent bundling. DM#3753948

PC1 – Bundling. DM#3772040

Appendix 1

Plan drafting sub-group changes to the Plan Change template, including draft changes based on discussion at the 19 April meeting. Draft changes will be discussed on 27 April and are subject to further change by the sub-group.

Background and Explanation

The background and explanation has been rewritten to more clearly describe how the plan change gives effect to the Vision and Strategy/Te Ture Whaimana, and the National Policy Statement for Freshwater Management (NPS FM).

Outcomes

The *Outcomes* have been incorporated into the long term objectives (Objectives 1, 2 and 5), to ensure that the information is contained within provisions that have statutory weight (i.e. they apply during consenting).

Objectives

The long term numeric objectives are combined into a single objective (*Objective 1*) that refers to the relevant limits tables. *Objective 1*, along with short term narrative *Objective 3*, are the water quality objectives that most of the plan change now sits under.

Objective 2 is the long term people-focused objective, and in combination with short term *Objective 4*, now provides for the staged transition that ensures social, cultural and economic wellbeing.

Objective 5 is a single objective; *Mana Tangata – protecting and restoring tangata whenua values* has been developed by the Maori Land sub-group (not reflected in latest version of Plan Change template).

Objective 6 reflects the wording recommended by CSG for Whangamarino wetland and its catchment.

Policies

The policies are grouped into themes. All except the last two themes sit under *Objectives 1 and 3*.

Make Reductions

Policy 1: Avoid increases in discharges and make reductions

Rewritten but needs further work

Policy 2: Identify a reference point for nitrogen and reduce highest emitters

This has been worked on by the farm plan sub-group and is not reflected in latest version of Plan Change template.

Policy 3: Providing for adaption and change in commercial vegetable production systems

See vegetable production provisions below.

Policy 4: Prioritised and focused implementation

Rewritten but needs further work

Policy 5: Guide actions in property plans

This has been developed by the farm plan sub-group and is not reflected in latest version of Plan Change template.

Policy 6: Preparing for allocation decision in next plan change

This was previously referred to as *Transition towards property level allocation of contaminant discharges*. Rewritten, for approval.

Policy 7: Subcatchment and edge of field mitigation planning, co-ordination and funding

This was two separate policies previously. Rewritten, for approval.

Point sources

Policy 8: Point sources

See point source provisions below

Land use change

Policy 9: Restricting land use change

Content to come from Maori land sub-group

Lakes Freshwater Management Units

Policy 10: Lakes FMUs

See Lakes FMU provisions below

Whangamarino

Policy 11: Whangamarino wetland

Content to come from Plan drafting sub-group

Settlement Land and Te Ture Whenua Maori freehold land

Policy 12: Flexibility for develop of land returned under Te Tiriti o Waitangi settlements and multiple owned Māori land

This has been developed by the Maori Land sub-group and is not reflected in latest version of Plan Change template

Staging the transition to 80 year goal

Policy 13: Staged approach

Content to come from Plan drafting sub-group

Point Source provisions

CSG members from the sectors concerned provided suggested provisions to the sub-group, which were discussed and feedback provided by the sub-group. This has been an iterative process, and at this stage the sub-group has not agreed to a set of point source provisions. Broadly, the provisions are intended to provide for adopting the Best Practicable Option (BPO), mitigating effects through applying BPO and where mitigations are not used; making use of offsets.

Vegetable Production provisions

Draft provisions were provided to the sub-group. The sub-group has discussed them and provided feedback. The provisions are intended to provide for existing and new farm

enterprises and for conversion that demonstrates reductions in discharges. The sub-group did not reach agreement on a set of provisions.

Lakes FMU provisions

Policy staff provided a draft set of provisions for the lakes FMUs. The group agreed to the provisions subject to the inclusion of reference to lake catchment planning, and integrating this with the outputs of the farm plan sub-group.

Rules

As a first step, rules are being re-drafted as a result of the Farm Environment Plan Sub-group and the Maori Land Sub-group.

Rule 3: Staff were directed to rewrite this rule to refine the below 4.1ha threshold, but changes at the farm plan sub-group have meant this was not resolved by the sub-group. New rules have been introduced for vegetable production. They are still under consideration.

Consequential Changes

Robin Britton provided an outline of the consequential changes based on the plan change template at 19 April 2016⁴. This outline covered:

1. General Approach to cross referencing Ch 3.11 to other chapter in the plan
 - Reference co-management
 - Ensure consistent wording used
 - Add an introductory clause to some chapters stating that specific provisions relate to W&W catchments (new Ch 3.11)
 - Stating that where there is no specific policy or rule guidance in Chapter 3.11, the existing plan provisions will apply
 - Stating where CH 3.11 takes precedence over other provisions in the plan
 - Cross referencing Ch 3.11 in policies or rules or principal reasons or other methods or advisory notes to indicate that more stringent provisions apply or that Ch 3.11 needs to be taking into account or that there are specific rules for the W&W catchments
2. Key areas of Plan where changes likely to occur:
 - Relationship between existing water classes and new water values/ classes
 - Water class standards – needs to cross reference new limits/ targets
 - Check if any impacts likely on “natural state water”
 - Suspended solids standards – rules need to cross reference any new standards set for W&W catchments
 - Monitoring specified in plans – check what changes needed
 - Relationship between water management plans (8.1.2.2) and property management plans
 - Checking diagrams/ tables/ maps etc are still relevant (e.g. nitrogen loading table 3-4; Pathogens Table 3-5)
3. Specific Chapters in the Plan where consequential changes will be required
 - CH 1: Introduction – cross referencing Ch 3.11
 - Ch 2: Matters of Significance to Maori – co-management + cross referencing Ch 3.11
 - Ch 3: Water Module – ch 3.11 needs to be embedded and cross referenced in all part

⁴ Consequential changes to the Waikato Regional Plan – brief outline for plan drafting subgroup. DM#3770616

- CH 4: River and Lake Bed Module: primarily cross referencing to Ch 3.11 or objectives or WQ or sediment standards
- CH 5: Land and Soil Module: cross referencing CH 3.11, or objective, or rules - and specifying instances where new rules apply and are therefore excluded from existing rules

There were also specific queries raised by the sub-group in relation to stormwater, earthworks, stock exclusion and land use change. Detailed consequential changes will be available once the plan change provisions are finalised by CSG.

Glossary

The glossary has been updated with new definitions but their inclusion is dependent on final decisions about wording (in the rules in particular).