

# Report to the Collaborative Stakeholder Group – for Agreement and Approval

**File No:** 23 10 02

**Date:** 26 May 2016

**To:** Collaborative Stakeholder Group

**From:** Justine Young and Mark Brockelsby

**Subject:** **Dates and timeline for Plan Change 1, to make it practicable to implement and clear it is a transition to allocation in the next Plan**

**Section:** **Agreement and Approval**

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## 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.

## 1 Purpose

The purpose of this report is to assist CSG to decide dates for different rules, so that staff can fine tune relevant provisions in Waikato Regional Plan Change 1: Waikato and Waipa River Catchments, including:

1. Whether the rules that restrict land use change have an 'end date' after which the rule no longer applies, which will make it clear that the Plan Change represents a transition to a future allocation of property-level limits for diffuse and point source contaminants; and
2. How options for end dates for rules relates to timing for Plan Change 1 to become operative; and
3. What year should be specified in each rule that acknowledges that while we want to see change as fast as possible, systems and processes will need to be in place to collate data and work with farmers and industry on Farm Environment Plans.

## Recommendation:

1. That the report [**Dates and timeline for Plan Change 1, to make it practicable to implement and clear it is a transition to allocation in the next Plan**] (Doc #6186222 dated 26 May 2016) be received, and
2. That the Collaborative Stakeholder Group (CSG) confirm:
  - a. For land use change rules: which option set out in this report is preferred (where both option 1 and 2 seek to clarify that the Plan Change represents a transition to a future

allocation of property-level limits for diffuse and point source contaminants)

- b. For all rules, what start date for implementation should be specified in the rule that acknowledges that while we want to see change as fast as possible, systems and processes will need to be in place to implement the rules.

## 2 Overview of report

CSG needs to decide dates for different rules, so that staff can fine tune relevant provisions in Waikato Regional Plan Change 1: Waikato and Waipa River Catchments. The report is in two parts.

Section 3 covers issues related to Plan Change 1 being a transition toward an allocation approach in the next plan change. The rule that most clearly represents the transition is the restriction on land use change in Rules 2 and 8 (general land use change restriction rule and Maori land development rule respectively), which CSG intended to only apply until the next plan review with a new set of rules that spells out the allocation approach. Issues around an 'end date' for land use change restrictions are how specific the plan change should be, and other considerations about the timing of WRC plan reviews.

Section 4 of the report is largely concerned with implementation of the plan change, and goes through each rule in turn. WRC staff understand that the CSG have decided that it is the implementation of the rules that they wish to stage, not whether the rules have legal effect. The four tranches of priority for implementation allow for:

- resources to be focused in one area at a time
- sufficient time to get training, certification and processes and procedures up and running.

Staff believe that the CSG sub-group dates for the land use change and stock exclusion rules and three tranches of implementing farm Environment Plans can be met as long as sufficient resources and skilled people are available.

However, rule implementation for registration (Rule 0), nitrogen reference data (Rule 7) and low intensity land uses (Rule 4) will inevitably be delayed while landowners and council staff get some basic processes up and running and do the initial data gathering steps. The implications are that implementation of these rules will take an additional 6-18 months to get up and running. This is over and above the acknowledgement CSG sub-groups have already made, that it will take time to get started. Registration data and nitrogen (N) reference data won't be available straight away. First, the registration portal needs to be built and all landowners on properties over 4.1 hectares need to run OVERSEER to get their nitrogen reference point. Rule 4 (15 kg/N/ha/year condition) relies on farmers knowing how much nitrogen they leach, so implementing this rule is reliant on the nitrogen reference data.

## 3 End date for rules - Ensuring the staged approach is fully reflected in the plan change

The concept of a staged approach to full achievement of the Vision and Strategy has been agreed by CSG and consulted on with the wider community.

Explanation and guidance about a staged approach is already contained in the background, objectives, policies and methods sections of the document (Waikato Regional Plan Change 1: Waikato and Waipa River Catchments, referred to in this report as the Plan Change)<sup>1</sup>.

CSG sub-groups have discussed how the different rules should align, so that it is clear to plan users that there will be changes to the rule framework in the next plan review (dates and timelines were discussed by the nitrogen limits sub-group in late 2015, then by the farm plan and Maori land sub-groups in April 2016).

CSG have not yet received results from modelling the policy mix simulation, so do not know if their current policy mix will achieve Stage 1 towards achieving the Vision and Strategy ('10% in 10 years).

At the CSG meeting on 9 May 2016, members agreed that:

- It is important to communicate that Plan Change 1 represents a transition to a future allocation of property-level limits for diffuse and point source contaminants
- Allocation, in the form of property-level limits, will come into force when Plan Change 1 is reviewed and a new proposed plan is publically notified
- In the meantime, allocation principles will be stated in the Plan Change, including that allocation should be based on land suitability and sensitivity of the receiving environment, and that WRC should be preparing for it now through research and technical analysis (within WRC and with other parties including through the Ministry for Business, Innovation and Employment's 'Our Land and Water' components of the New Zealand National Science Challenge).

See also a separate Report to CSG for 30 -31 May, outlining approaches to CSG allocation principles (Options for allocation principles and Policy 7' (Doc # 6176204).

The dilemma for the CSG is that it needs to give people confidence that the first stage 'does enough' toward achieving the Vision and Strategy, while recognising that it does not know how future allocation based on land suitability will affect individual landowners. What is known, is that in the next plan change, landowners will have to make further changes to how they manage their land.

### **3.1 End date for land use change rule 2**

Two options are set out below. Both rely on work starting now to prepare for a future allocation regime. The key difference between the options is how specific the CSG wants to make Plan Change 1 in terms of it being a transition to a new regulatory regime in the next plan change.

#### **Context about timing of plan change reviews**

WRC has scheduled a number of RMA planning processes over the next 10 years. Plan Change 1 for Waikato and Waipa River Catchments will go through a submissions and hearings process, then any appeals will be dealt with through Environment Court processes. Section 4 of this report notes that water quality-related rules have legal effect as soon as the Plan Change is notified, but that they are likely to be under challenge through the First Schedule process. It could take up to four years from notification for Plan Change 1 to be fully operative (2020).

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<sup>1</sup> Explanation and background – Full achievement of the Vision and Strategy will be intergenerational and Reviewing progress toward achieving the Vision and Strategy, objectives 1, 2, 3, and 4, policies 6 and 7, and methods 3.11.4.9 and 3.11.4.10.

Notification of Plan Change 1 will be followed by another water quality plan change for other parts of the region. WRC is due to commence the review of the Waikato Regional Plan and the Waikato Regional Coastal Plan, once it has Joint Management Agreements in place with the relevant iwi partners. Background information and data gathering is underway. The review of the Waikato Regional Plan and the Waikato Regional Coastal Plan will be undertaken in three phases spanning different topics. Staff estimate the final Plan incorporating all water quality plan changes will become operative around 2025 depending on appeals to the Environment Court.

The implications for reviewing Plan Change 1 and putting in an allocation regime, are that WRC will have to juggle resources to ensure that it can review and notify a new plan for the Waikato and Waipa River catchment, while other RMA First Schedule processes are underway.

### **Option 1 Plan Change 1 contains text but no ‘end dates’ for rules**

This option is for the background text, policies, methods to refer to the transition/staged approach to full achievement of Vision and Strategy. The Plan Change (26 May version) already has specific methods about WRC research/info to prepare for allocation in next Plan Change<sup>2</sup>

As is standard practice, all rules are reviewed when WRC commences the review of the plan change (Chapter 3.11 of the Waikato Regional Plan). There are no ‘end dates’ in rule 2. There could policy direction added (in bold, below) to Policy 7 – Preparing for allocation in the future - and an advice note after the rule.

Policy 7 could be amended to read:

*Policy 7: Preparing for allocation in the future*  
*Prepare for further reductions and any future property-level allocation of discharges of nitrogen, phosphorus, sediment and E.coli that will be required by subsequent Regional Plans, by implementing the policies and methods in this chapter. To ensure **transitional rules that restrict land use conversion are replaced with a new regulatory allocation approach, occurs, collect information and undertake research to support this, including ...’.***

Advice notes have no legal effect but are included to assist plan users. A new advice could be inserted after the land use conversion rules to read:

**Advice note** *This rule is intended to represent an interim restriction on land use change until such time as the next plan review can make decision on allocation of contaminant loads required to achieve the Vision and Strategy.*

### Implications

1. Non-binding  
Plan provisions such as dates for reviews in policies and non-regulatory methods, are a public statement of council policy. However, even if the Regional Plan referred to a specific year that the future allocation rules will be notified, this does not guarantee it will occur. CSG has discussed that Plan change 1 cannot bind the Council with regard to the timing of future review date.
2. Perception from some parts of the community that instead of a transition, the current rules are fixed indefinitely.
3. Does not clearly reflect the CSG intent.

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<sup>2</sup> Explanation and background – Full achievement of the Vision and Strategy will be intergenerational and Reviewing progress toward achieving the Vision and Strategy, objectives 1, 2, 3, and 4, policies 6 and 7, and methods 3.11.4.9 and 3.11.4.10.

## **Option 2 As Option 1, plus Plan Change 1 contains an ‘end date’ for rules 2 and 8**

Rule 2 would contain a specific year, after which it no longer applies. A preference for this option has been stated by CSG numerous times, particularly by those CSG members who do not want to see an indefinite ‘grand parenting’ of nitrogen discharges. This has also been a concern expressed by river iwi.

1. Date by which WRC will review Chapter 3.11 and notify new Plan Change with allocation
2. ‘Expiry date’ in Rule 2 and 8 (land use change restriction)

As an example, the rule could read

### ***Non complying activity interim rule – Land Use Change (rule 2a)***

*Any change in the use of land in the Waikato and Waipa catchment from the [date of notification] until [date decided by CSG e.g. 1 July 2030], from the following:*

*.....*

*List of land use changes ...*

### Implications of Option 2

1. Putting an ‘end date’ in Rules 2 and 8 means that adverse effects of any land use change after that date, is only covered by the remainder of the rules. The intention is to commit WRC to putting out new rule(s).

If Rule 2 no longer has effect from the date specified in the rule, then the change of land use will no longer require resource consent. Currently, the Regional Plan is silent about the activity of changing land use. Therefore any controls on diffuse discharges will be covered by the remainder of the provisions in Plan Change 1. If the CSG retains a ‘hold and reduce diffuse contaminants’ policy, then this will be used in any land use change situation. As at 9 May, the CSG agreed rules will require landowners to:

- Exclude stock from water
  - Undertake good management practice and additional mitigations as part of their farm environment plan
2. To avoid a ‘rush’ of conversions after the end date, other controls are likely to be needed. Council is likely to plan its review of Plan Change 1 so that new rules are notified before the end date of Rule 2

## **Deciding on the end date for rules that restrict Land Use Conversion**

### Option 2a:

CSG has consulted on 10% toward the Vision and strategy in 10 years. In CSG conversations to date, this has meant that the interim land use change restriction rules would expire in 2026.

Implications:

WRC will have to commence the review of Plan Change 1 in about 2023, in order to go through the full engagement process before notification of the allocation approach. It will have to juggle resources to ensure that it can review and notify a new plan change for the Waikato and Waipa River catchment by 2026, while other RMA First Schedule processes are underway.

### Option 2b:

If WRC reviews provisions in Plan Change 1 ten years after operative, the review could commence in 2029/30 and a Plan Change is notified 18 months -2 years later, in 2032.

Implications:

The perceived 'stretching out' of the dates from what has previously been discussed may not receive favour across CSG, nor support from governors concerned with an extension of the transition stage or focused on achieving the 10% target in 10 years from notification.

## 4 Start date for rules – getting the implementation right

This section assesses the question of when the various rules in the Plan Change should apply.

CSG has agreed that they wish some rules to have immediate effect. These are:

Rule 2 and 8 (restricting land use change). At present, various other rules would have immediate effect but include express provisions which delay the date by which compliance is required.

With regard to property plan requirements, the staggered priorities based on sub-catchment groupings (tranches) are intended to allow for:

- resources to be focused in one area (groups of sub catchments) or one type of property at a time (lowest risk properties are the last to be implemented)
- sufficient time to get training, certification and processes and procedures up and running.

In the following, we set out the key considerations for determining the appropriate timing of rules taking effect – these fall into two categories:

1. legal requirements/constraints, and
2. implementation considerations.

Sections 4.2 and 4.3 cover the timing issues for each rule that need to be considered and we suggest some solutions. We emphasise that this focuses on timing of rule requirements, not wider drafting issues.

### 4.1 Legal considerations

- (a) Following public notification, the proposed plan change will go through the formal RMA Schedule 1 process. Policy staff estimate that it may take up to 4 years to complete that process (at which point it becomes “operative”);
- (b) The Plan is due to be formally notified (“proposed”) in 2016. Section 86B of the RMA governs when rules in proposed plans have legal effect (i.e. commence). It states that a rule in a proposed plan has immediate effect if the rule “protects or relates to water, air, or soil...” (s85B(3)). Given that the purpose of the Plan Change is to protect water, it should be assumed that the rules will have immediate legal effect and this question will be examined in more detail through the legal review later in June once the rule framework has been finalised) Preliminary legal advice did not review the individual rules but assumed that the rules would have immediate legal effect given the purpose of the plan change is to protect water. For rules that don’t protect water, Council can make an application to the Environment Court for those rules to have immediate legal effect if required.
- (c) The Council can resolve under s86B(1)(c) that the rule will only have legal effect only when the proposed plan change becomes fully operative (i.e. in 2020 approximately).

- (d) Section 79 of the RMA (see Appendix 1) requires WRC to commence a review of any provision that has not been looked at for ten years. Therefore, if the Plan Change is operative in 2019/20 financial year, WRC must commence its review of those provisions in 2029/30 financial year. Councils do have the ability to review plans at any time (subsection 4 of s79). If WRC chooses to do this, it has to be a 'full review' of every provision, regardless of when it was made operative.
- (e) The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 sections 18 and 19, contain requirements for review of the vision and strategy. These are mirrored in the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010. In 2012 the Ngaa Wai o Maniapoto (Waipa River) Act 2012 passed into legislation extending the boundaries for the Vision and Strategy to also include all of the Waipa River. The initial review was in 2011 (Waikato River Authority 2011). No changes were made. The Waikato River Authority (WRA) must review the Vision and Strategy no earlier than 5 years and no later than 10 years after the previous review<sup>3</sup>. Therefore the WRA has until 2021 to review and decide whether changes are appropriate, in the form of new target and methods to be inserted into the vision and strategy. Staff understand that the WRA board have not initiated a review, and may wait for Plan Change 1 to go through the process.

## 4.2 Implementation considerations

The comments below expand on the implementation considerations presented to CSG on 9 May 2016 by WRC staff and contractors (WRC 2016).

- a) The first implementation priority will be to prepare an Implementation Plan for the Plan Change (WRC 2016). An outline of this plan was presented to CSG on 9 May 2016. Work is underway on the Implementation Plan now. In short, its purpose will be to define how the Plan Change will be effectively and efficiently delivered. Preparing the Implementation Plan is a significant task in its own right, one that will require significant stakeholder and Iwi partner input and resourcing. Currently, it is estimated that 6 months will be required to finalise the Implementation Plan (i.e. October/November 2016).
- b) Securing WRC resourcing for implementation. Currently, there is some existing budget for initial development of systems and processes. Whatever further progress can be made in the 2016/17 financial year toward putting in place the infrastructure required for Plan Change 1 will need to be undertaken within current budgets. Resourcing to meet the needs of Plan Change 1 will occur through the Annual Plan process. Council will consult on draft funding proposals in early 2017, for a 1<sup>st</sup> July 2017 financial year start.
- c) Communications, liaison, systems, and processes needed to administer and implement the rules, will take at least one year to develop. This includes registration requirements, developing the details and protocols around industry schemes and their accreditation, farm plans, farm plan advisors; information management systems, training, templates, publicity, information. A period of 12 months will be required to enable landowners to understand the rules and the implications on themselves;
- d) Finally, the CSG will be aware that changes during the Schedule 1 process will impact on land users i.e. there is potential to "shift the goalposts", depending how far reaching the changes made following Council and then Environment Court processes. Each part of the Plan Change is subject to change until it is beyond the point of further challenge. This has implications for

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<sup>3</sup> Section 19 Waikato-Tainui Raupatu Claims (Waikato River) Act 2010

plan users and the potential to lead to some confusion about who is affected by the different rules, and what the rule requirements are. For instance, the first priorities for implementation are Tranche 1 properties who must provide WRC with their Farm Environment Plan by 2020. CSG has decided that Tranche 1 includes those farms where nitrogen leaching is high (currently over the 75%ile). This may be controversial and still unresolved at the time that Farm Environment Plans are being done.

Accordingly, it is suggested that a period of approximately 18 months from notification is needed in order to (a) prepare the Implementation Plan and (b) enable adequate resourcing up to begin implementing the Plan rules. That takes us to approximately the beginning of 2018.

Bearing in mind the legal and implementation considerations set out above, the implementation date of each of the rules is considered in turn. This assessment assumes that, in accordance with s86B(3), all rules will have immediate legal effect upon notification in 2016. Recommendations are made as to provisions which may be necessary to enable efficient and effective implementation.

Rule implementation for registration (Rule 0), nitrogen reference data (Rule 7) and low intensity land uses (Rule 4) will inevitably be delayed while landowners and council staff get some basic processes up and running and do the initial data gathering steps. The implications are that implementation of these rules will take an additional 6-18 months to get up and running. The remainder of the rules are covered for completeness, and implementation issues noted, but staff believe the CSG sub-group dates for implementation can be met.

### **3.3 Implementation start date for each rule**

#### **Rule 0: Registration.**

This rule has registration required to be completed by 1 July 2018. However we need time to develop the portal and it will be much more efficient to delay registration until that is done rather than try to deal with registrations manually in the meantime. The Schedule 1 process may also result in changes to the registration requirements. That is likely to be clear by mid-2018, therefore it is suggested that registration not be required until after that date. This means that the rule should provide for registration between say September 2018 through to March 2019.

Recommendation: require registration in the period 1/9/2018 to 31/3/2019.

#### **Rule 1: Exclusion of stock from water.**

This rule requires compliance in tranches by 1 July 2020 or later.

#### **Rule 2a – Land Use Change.**

This is currently a non-complying activity rule that will apply from the date of notification and will be implemented subject to the limitations noted in the “Regulatory Implementation commentary” (9 May 2016).

#### **Rule 2b – Existing commercial vegetable production.**

This is a controlled activity rule which applies from 1 July 2020, requiring resource consent. This implies that the activity is “permitted” until that date – this should be made more explicit in the rule. This gives a sufficient period of time for implementation.

Recommendation: clarify in the rule that the activity is permitted until a suitable period prior to 1/7/2020 (say 31/3/2019 - then enabling applications to be made in time to meet the 1/7/2020 timeframe), subject to any other relevant rules in the plan.



### **Rule 3 and/or 4 – Small and low intensity Farming Enterprises.**

The latest version of this combined rule splits them again into two.

Rule 3 is a permitted activity which will have immediate effect. That doesn't in itself result in any implementation issues (although there are compliance/enforcement issues associated with some of the thresholds).

Rule 4 is a permitted activity rule but some who fall under it, will be subject to various annual information requirements. The Council will not immediately be in a position to administer, store or manage that information. Other land users will require N reference data (required by rule 7) to determine whether they meet the N loss intensity threshold but that data will not be available until a currently unknown later date. In the absence of N reference data, there will be uncertainty regarding the legal status of land use. This could be avoided by including a provision in this rule to the effect that the rule will not apply until say, the end of 2018. That would provide adequate time for N reference data to be obtained, and, for those who cannot comply with the rule(s), to meet the requirements of rule 5 or 6 (to one of which rules 3/4 default).

Recommendation: include a provision to the effect that the information requirements will not apply until a suitable date (say 31/3/2019).

### **Rule 5 – Farming activities (No industry scheme).**

This is a controlled activity. It requires land users to be operating with consents and in accordance with approved FEPs by various tranche dates starting with 1 July 2020. However, as currently drafted, there is nothing to stop someone applying immediately upon this rule being notified. Council is clearly not in a position to process such an application. A period of time before this rule applies is required. As noted above, realistically, 15 months is required to get the systems and processes in place – hence Council would be in a position to process consent applications by 2018. A provision to this effect can be provided for within the rule, making it clear that until that time, the activity is permitted. On that basis, and given the large numbers estimated in the first tranche, and the resources likely to be available to assist in the development and certification of FEPs, the completion date for the first tranche of 1 July 2020 appears to be very ambitious. The CSG may wish to consider whether the dates need review. In this regard, it is unclear whether the rural professional industry will have the capacity to assist affected farmers or will the Council be expected to assist farmers with farms plans or fill industry gaps. It is difficult at this stage to predict what and where the gaps will be. It will also take time to recruit and train relevant staff to professional standard.

Recommendation: include a provision to the effect that activities under this rule are permitted until a suitable date prior to the various relevant tranche dates (say 15 months prior – to enable sufficient time for applications to be prepared and lodged)

### **Rule 6 – Farming activities/FEP (Industry scheme supported).**

This is a permitted activity. Implementation is expected to largely sit with the relevant industry although implementation will be subject to putting in place much of the same systems/processes and protocols that apply to Rule 5.

### **Rule 7 – N reference point.**

This is a permitted activity requiring information for all properties over 4.1 ha to be “recorded”. All the CSG sub-group discussion to date has been that this data needs to be in by July 2018. This allows calculation of the 75<sup>th</sup>ile, and for those people to then develop their FEPs by 2020 and achieve nitrogen reductions by 2026.

Currently, the rule states that the information is to be “retained by the landowner and provided to WRC on request”. It is unclear whether this aligns with the most recent CSG position, or whether

the CSG anticipates that the data should be provided to WRC when it is available. The rule includes no date by which this N reference point has to be determined/recorded. Such a date, or date range should be provided but shouldn't be too soon (because Council doesn't have the means to administer/store/manage the data) nor too late (so as to enable use of it for determining compliance with Rule 3/4 (end of 2018 suggested above).

Recommendation: include a provision identifying the period within which N reference data is to be provided (eg 1/9/18 – 31/3/19)

**Rule 8 – land use change - Maori land.**

This is a discretionary activity rule which will, as currently drafted, have legal effect at the date of notification. That in itself isn't particularly problematic although we consider that, from a monitoring and compliance point of view, it will be subject to similar constraints as for Rule 2a. (The main concern regarding this rule is the wording of the "conditions, standards and terms" which will cause significant uncertainty as to the status of any application made).

**Rule 9 – Catch-all Farming activities.**

This is a restricted discretionary activity to which all other rules default. Consent is needed under this rule which is why it is important that, where land users cannot physically comply with other rules (e.g. due to the lack of N reference data), delayed start provisions be included in those rules. Otherwise, the legal position will be that consent is required under Rule 9

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**Appendix 1** - Sections of Resource Management Act 1991 on plan reviews and when rules have legal effect

## 4 References

Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010

Nga Wai o Maniapoto (Waipa River) Act 2012

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Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

## **Appendix 1: Sections of Resource Management Act 1991 on plan reviews and when rules have legal effect**

### **Rules can apply for stated periods of time**

#### **68 Regional rules**

(1) A regional council may, for the purpose of—

(a) carrying out its functions under this Act (other than those described in paragraphs (a) and (b) of [section 30\(1\)](#)); and

(b) achieving the objectives and policies of the plan,—

include rules in a regional plan.

....

(5) A rule may—

(a) apply throughout the region or a part of the region:

(b) make different provision for—

(i) different parts of the region; or

(ii) different classes of effects arising from an activity:

(c) apply all the time or for stated periods or seasons:

(d) be specific or general in its application:

(e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

### **When full reviews of regional plans must be commenced and that these can be at any time**

#### **79 Review of policy statements and plans**

(1) A local authority must commence a review of a provision of any of the following documents it has, if the provision has not been a subject of a proposed policy statement or plan, a review, or a change by the local authority during the previous 10 years:

(a) a regional policy statement:

(b) a regional plan:

(c) a district plan.

(2) If, after reviewing the provision, the local authority considers that it requires alteration, the local authority must, in the manner set out in [Part 1](#) of Schedule 1 and this Part, propose to alter the provision.

(3) If, after reviewing the provision, the local authority considers that it does not require alteration, the local authority must still publicly notify the provision—

(a) as if it were a change; and

(b) in the manner set out in [Part 1](#) of Schedule 1 and this Part.

(4) Without limiting subsection (1), a local authority may, at any time, commence a full review of any of the following documents it has:

(a) a regional policy statement:

(b) a regional plan:

(c) a district plan.

(5) In carrying out a review under subsection (4), the local authority must review all the sections of, and all the changes to, the policy statement or plan regardless of when the sections or changes became operative.

(6) If, after reviewing the statement or plan under subsection (4), the local authority considers that it requires alteration, the local authority must alter the statement or plan in the manner set out in [Part 1](#) of Schedule 1 and this Part

## When rules have legal effect

### 86B When rules in proposed plans and changes have legal effect

(1) A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified under [clause 10\(4\)](#) of Schedule 1, except if—

(a) subsection (3) applies; or

(b) the Environment Court, in accordance with [section 86D](#), orders the rule to have legal effect from a different date (being the date specified in the court order); or

(c) the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with [clause 20](#) of Schedule 1.

(2) However, subsection (1)(c) applies only if—

(a) the local authority makes the decision before publicly notifying the proposed plan under [clause 5](#) of Schedule 1; and

(b) the public notification includes the decision; and

(c) the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with [section 86C](#)).

(3) A rule in a proposed plan has immediate legal effect if the rule—

(a) protects or relates to water, air, or soil (for soil conservation); or

(b) protects areas of significant indigenous vegetation; or

(c) protects areas of significant habitats of indigenous fauna; or

(d) protects historic heritage; or

(e) provides for or relates to aquaculture activities.

(4) For the purposes of subsection (2)(c), a decision is **rescinded** if—

(a) the local authority publicly notifies that the decision is rescinded; and

(b) the public notice includes a statement of the decision to which it relates and the date on which the decision was made.

(5) For the purposes of subsection (3), **immediate legal effect** means legal effect on and from the date on which the proposed plan containing the rule is publicly notified under [clause 5](#) of Schedule 1.

## Rules can have delayed effect if specified in Plan Change 1

### 86E Local authorities must identify rules having early or delayed legal effect

(1) A local authority must clearly identify any rule in a proposed plan that has legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under [clause 10\(4\)](#) of Schedule 1—

(a) at the time the proposed plan is notified under [clause 5](#) of the schedule; or

(b) as soon as practicable after the date is determined, if the rule concerned is the subject of an application under [section 86D](#) and the application is not determined before the proposed plan is notified.

(2) A local authority must clearly identify any rule of a type described in [section 86B\(6\)](#) at the time the change containing the rule is publicly notified.

(3) The identification of a rule in a proposed plan or change under subsection (1) or (2)—

(a) does not form part of the proposed plan or change; and

(b) may be removed, without any further authority than this subsection, by the local authority once the plan or change becomes operative in accordance with [clause 20](#) of Schedule 1.