

Report to the Collaborative Stakeholder Group – for Agreement and Approval

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Date: 27 July 2015
To: Collaborative Stakeholder Group
From: Chairperson – Bill Wasley
Subject: Exploring industry farm plans as a policy option; including industry-supported farm plan with regulatory backstop
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.

1 Purpose

The purpose of this report is to give the CSG key points about where staff and staff-sector group workshops have got to on a two-step policy option where landowners either:

- a. work with their industry body to reduce their farms discharges, or
- b. obtain a resource consent from the council.

Recommendation:

1. That the report [Exploring industry farm plans as a policy option; including industry-supported farm plan with regulatory backstop] (Doc #3454905 dated 27 July 2015) be received, and
2. That the Collaborative Stakeholder Group:
 - a) Confirm that policy staff continue to investigate a policy approach for managing sediment, microbes, nitrogen and phosphorus that:
 - i. Consists of a permitted activity rule with conditions, where horticulture, drystock and dairy landowners work with their industry body to reduce their farms discharges, with an alternative pathway of a resource consent from Waikato Regional Council for landowners who do not comply with rule conditions.
 - ii. Involves working with CSG representatives, WRC extension, implementation and compliance staff to develop this option further.
 - b) Direct policy staff to identify key elements of the implementation of this option and develop methods and rules after seeking advice from the CSG on detail.

2 Background

Based on CSG discussions, at this stage staff are actively investigating two possible policy approaches: catchment wide rules and industry farm plans. Industry farm plans are being considered in addition to general rules (not as an either/or).

At the June CSG workshop, forestry, dairy, drystock and horticulture sectors gave a ten minute outline of how current initiatives in their sector could be put into a regional plan. In July, the CSG agreed that sector representatives would work with staff and come back to the large group with some further detail.

The common elements of each industry scheme are that:

- Resource consent is not required if landowner is signed up to an industry scheme
- All landowners who are not part of their industry scheme are require resource consent
- Based on existing programs or approved accreditation scheme
- Regulation and enforcement that supported these approaches.

The forestry sector preference is to continue to manage effects of forestry operations such as, through conditions on permitted activities that can be applied across the whole Waipa and Waikato River catchments. See the report to August 10-11th CSG titled “Waikato and Waipa catchment wide rules to investigate as part of policy options for sediment, microbes, nitrogen and phosphorus DM#3450520 dated 27 July 2015.

The descriptors below outline the generalised descriptors from conversation with council and incorporating industry perspective. These conversations are in early stages so the outline below is still sketchy and may not capture the options as proposed.

3 Where council have got to investigating policy options

The general description of possible council approach incorporating farm plans is “rules that require landowners have a farm plan that spells out what the landowners do and how” (Waikato Regional Council 2015 Document #3258508) (See also Table 1 in appendix 1).

The general description of CSG industry sector members’ about an industry-led scheme, is where industry body has a formal or informal contract with its members about mitigations to be undertaken on that property. The council is described as having a ‘regulatory back-stop’ role.

This industry option was discussed at WRC staff meetings on 1 July attended by some policy, compliance, regulatory and extension staff. Two industry-proposed models were briefly described; Fonterra Industry Audited Self Management and New Zealand Good Agricultural Practice (NZ GAP - HorticultureNZ).

Then on 16 July 2015 another workshop with a similar mix of staff was held, and a more generally described option. This focused on more detail on extension, consent and compliance and enforcement consideration for designing a tailored farm plans approach including industry approaches. This included resources, skills, information needed for consents, process to develop contract with farmers and what is needed to support achievement of the water quality results desired by the community.

Council staff have also had conversations with some of the industry sector representatives to work on detail of industry ideas on incorporating their approaches into the Plan Change. There has been a meeting with sheep and beef representatives and council policy staff on the 22 July 2015. In addition staff had an initial meeting on the 17 July 2015 with the forestry representative

to explore the forestry sector proposal in more detail. These initial conversations have not occurred for all industries.

The detail and questions to consider in policy design, and implementation considerations, such as managing compliance and the implementation resources required, have not been included in this report.

4 Industry approaches

The possible policy approaches discussed so far to incorporate farm plan type concepts and industry have a few different elements.

For the industry policy options that base starting point is similar. Some form of requirement for a farm/property plans with activities to address discharges as a requirement of a Permitted Activity Rule.

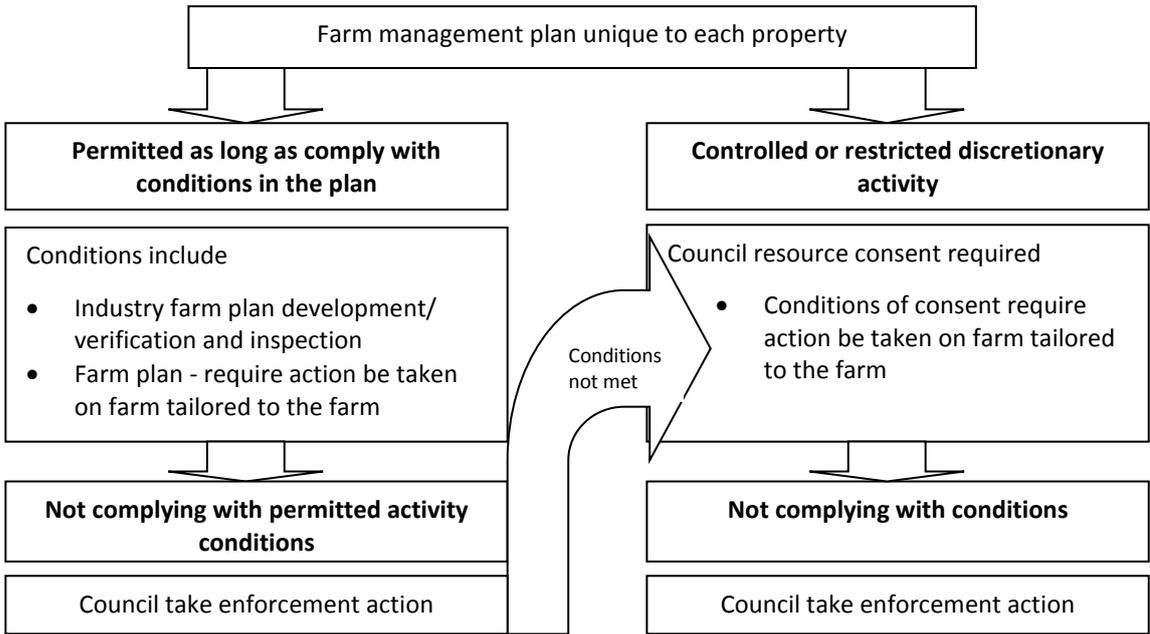
The suggested industry approaches vary such as:

- The basis for the program is an industry quality assurance scheme or self management scheme.
- Where and to what extent industry involvement or support might be.
- Industry accredited training, workshop support plan development, third party auditing

4.1 The two-step industry/council policy option

Figure 1 is a concept diagram of what the industry/council approach might look like to a landholder. The left hand side of Figure 1 shows if a landholder chooses to meet council rule requirements by aligning with an industry program (approved in the rule) while the right hand side show if they choose to apply for a consent to be compliant. Landholders who choose the industry approach but fail to meet the standards, or fail to have a farm plan or adequate farm plan because they are not undertaking actions in the plan and do or do not respond to council enforcement action then landowners would need to obtain a consent (refer to Appendix 1 for broad descriptions of policy options incorporating farm plans). Landholder could choose from the start to directly work with council and apply for a resource consent.

Figure 1: Concept diagram showing a landholder choosing an industry approach/scheme or a council approach



4.2 Starting point

Possible starting point

Farm/property plans [focus of the plan on some or all of the four contaminants] are required for farms [description where/which/what requirement applies], as a requirement of Permitted Activity Rule¹.

4.3 Variations of industry approaches

4.3.1 Industry farm plan development/verification and inspection

Industry farm plan development/verification and inspection

Description

Landowners develop a farm plan, with help from industry bodies, and work with their industry to meet the activities set out in it. Industry conducts inspections against the farm plans. Council do random auditing of farm plans and accredited industry scheme.

Implementation

Industry support of plan development (one on one support), inspection/verification of plan and actions, auditing via industry accredited management scheme.

Council audit the scheme and or some farmers in the scheme i.e. have adequate plan and undertaking action in plan by date in plan.

Council compliance and enforcement.

4.3.2 Industry-supported farm plans

Industry-supported farm plans - plan development support

Description

Landowners develop a farm plan, with help (such as training and workshops that support plan development, plan template design) from industry bodies. Council work with landowner, verification of plan, auditing action, compliance and monitoring.

Implementation

Industry supported plan development in workshop/group learning environment.

Council inspection/verification of plan and actions.

Council compliance and enforcement.

¹ Any permitted activity rule/s will fall within s70 RMA which expressly prohibits regional councils from including permitted activity rule that allows discharges of contaminants unless the regional council is satisfied that certain effects are unlikely to arise in the water after reasonable mixing (refer Appendix 2). Any permitted activity rule would first need to satisfy s70 RMA.

Industry-supported farm plans - e.g. Third party auditing, part of supply accredited program²

Description

Landowners develop a farm plan with and accredited provider or to meet standards stipulate in the rule. Inspection of farm plan incorporated into industry accredited program that includes third party auditing. Council work with farmer, verification of plan, auditing action, compliance and monitoring.

Implementation

Industry support via of third party inspection/verification against own certification program.

Council everything else.

5 Summary

The report describes a two-step policy option. Both steps sit in a regulatory framework. Landowners' can meet rule requirements by either:

1. working with their industry body accredited assurance programs (to reduce farm discharges for some or all of the four contaminants) that require a property plan and action that are to be taken by a certain date,
2. or obtain a resource consent from the council, which requires actions to be taken on farm by a certain date.

For the industry (sheep and beef, horticulture, dairy) approaches that might be incorporated into the plan change the starting point is similar. Some form of requirement for a farm/property plans with activities to address discharges as a requirement of a Permitted Activity Rule. The approaches then vary; on the underpinning approach e.g. assurance scheme, self management scheme, extent of industry support and where in the process that support might be, and the possible role of third parties and accreditation of providers and where they fit into the process.

The forestry proposal differed from the other industry bodies, in that forestry sector was not asking for the Plan Change to include some form of industry scheme property plan (See report Waikato and Waipa catchment wide rules to investigate as part of policy options for sediment, microbes, nitrogen and phosphorus DM#3450520).

Incorporating industry approaches is a very sketchy concept at this stage. Initial conversation with some of the industry sectors, council staff and the CSG has raised a large number of questions about the design and implementation of the policy including:

- consents and ultimately the approach to implementation,
- compliance and enforcement considerations, and
- confidence in the achievement of water quality target using these approaches.

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² Keeping in mind these type of program may focus on meeting customer requirements not specific environmental assurance .

6 References

Waikato Regional Council 27 July 2015 Region-wide rules to investigate as part of policy options for sediment, microbes, nitrogen and phosphorus DM#3450520.

Waikato Regional Council 2015. Assessment of policy instruments for sediment using the Draft CSG Policy Selection Criteria. Agreement and Approval report dated 25 May 2015. Document #3258508.

Appendix 1

Table 1: Broad descriptors of policy options - Council farm plan approach and suggested industry approaches incorporating a farm plan

Council Rules that require landowners to have a farm plan that spell out what landowners have to do and how and by when and auditing of plan actions	Industry farm plan development/ verification and inspection	Industry-supported farm plans
<p>All farms required to have a resource consent.</p> <p>Accredited farm plan is part of the resources consent.</p> <p>Farm plans provided to council and part of consent.</p> <p>Council monitor and enforce consent activities (the farm plan and action in the plan).</p>	<p>All farm with a farm plan or equivalent, such as participating in an accredited program and meet scheme.</p> <p>Industry run industry scheme.</p> <p>Farm plan submitted by farmer to Council on request /or required to provide to council.</p> <p>Council audit the scheme or random selection of farmer in the scheme.</p> <p>All farms not participating in an approved scheme or have and approved farm plan would require a resource consent.</p> <p>Council audit consents of farmers not participating in approved scheme.</p> <p>Council monitor and enforce consent activities.</p>	<p>Industry support plan development through workshops by accredited providers.</p> <p>Council involved in plan verification.</p> <p>Farm plan submitted by farmer to Council on request /or required to provide to council.</p> <p>Council audit farmers and or third party auditors.</p> <p>All farms without a farm plan, developed with industry or other providers would require a resource consent.</p> <p>Council audit consents of farmers not participating in approved scheme.</p> <p>Council monitor and enforce consent activities.</p>

Appendix 2

s70 RMA Rules about discharges

- (1) Before a regional council includes in a regional plan a rule that allows as a permitted activity—
 - (a) a discharge of a contaminant or water into water; or
 - (b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water,—

the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

- (c) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
- (d) any conspicuous change in the colour or visual clarity:
- (e) any emission of objectionable odour:
- (f) the rendering of fresh water unsuitable for consumption by farm animals:
- (g) any significant adverse effects on aquatic life.

(2) Before a regional council includes in a regional plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the regional council shall be satisfied that, having regard to—

- (a) the nature of the discharge and the receiving environment; and
- (b) other alternatives, including a rule requiring the observance of minimum standards of quality of the environment,—

the inclusion of that rule in the plan is the most efficient and effective means of preventing or minimising those adverse effects on the environment.