

Report to the Collaborative Stakeholder Group – for Agreement and Approval

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To: Collaborative Stakeholder Group
From: Policy workstream
Subject: **Offsets definition and use**
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

The purpose of this report is to provide the Collaborative Stakeholder Group (CSG) with a definition of offsets, and outline where and how they may be applied as part of the plan change

Recommendation:

1. That the report 'Offsets definition and use' (Doc #6185728 dated 30 May 2016) be received, and
2. That the Collaborative Stakeholder Group:
 - a) Agree to the use of offsets for point source discharges only
 - b) Agree to the definition of offset
 - c) Agree that as part of any policies and methods on offsetting, the guidance for applicants and Waikato Regional Council contained in the appendices in this report should be included in the plan change, where appropriate.

Introduction

CSG were provided a range of policy options to manage diffuse discharges that included offsets in a report in June 2015¹. Appendix 1 Table 2 of that report outlined the policy framework that would be required to implement offsets. This was either to use an existing framework in the Regional Plan to cap and trade/offset, or have a property level limit for discharges and then use trade/offsets. Neither of these options were initially adopted by CSG. However, CSG did consider offsets were a useful tool for point source discharges.

A report on economic instruments was provided to the CSG in February 2016². This report summarised what instruments had previously been presented to CSG, and any position CSG took regarding each

¹ WRC 2015. Report to CSG 'Policy options for microbes, nitrogen and phosphorus' #3425911

² WRC 2016. Report to CSG 'Economic instruments and draft methods to support the regulatory mix' #3844999

instrument. Offsets and tradeable permits were included in this list as separate instruments, and included definitions. However, the terms 'offset' and 'trading' are often used interchangeably.

WRC has a regulatory framework that applies to land in the Lake Taupō Catchment. Rules set property-level nitrogen limits. Transfers of nitrogen are allowed between landowners who hold resource consents for their diffuse nitrogen discharge. Chapter 3.10.5 of the Waikato Regional Plan is an explanation of the rules and states that:

Landowners have flexibility to increase or decrease nitrogen leaching through an offsetting mechanism in the rules. Increases in nitrogen leaching can only occur where there are corresponding decreases in nitrogen leaching elsewhere in the catchment. Overall, there must be no net increase in nitrogen leaching within the catchment. A nitrogen leaching activity such as pastoral farming may decide to reduce the amount of nitrogen leached, thus releasing nitrogen for use by another landowner who wishes to change to a higher nitrogen leaching activity (for example conversion of non-nitrogen fixing plantation forestry planted into unimproved land to lifestyle blocks). This flexibility to offset changes in nitrogen leaching is facilitated through the consent process and enables nitrogen to be traded between landowners

The report on economic instruments to CSG in February 2016³ highlighted that 'property level limits for N and P were not favoured [by CSG] which means some instruments won't work, including offsets from [diffuse] sources (though landholders could provide offsets for point sources)'.

Subsequently, CSG proposed rules capping land use change (Rule 2a and 2b) and rules capping nitrogen at either current discharges, or at the 75th percentile for pastoral use, whichever is lower (Rule 7). In light of this, the plan drafting subgroup looked at a set of diffuse source discharges offsets (policy A and B), but a later farm plan subgroup⁴ recommended that offsets should not be included for diffuse source discharges.

The RPS addresses offsetting for point sources in the Freshwater chapter 8.3, in the implementation method 8.3.1 d). This method provides for mitigations or offsets where any adverse effects cannot be avoided or remedied. Offsets have been agreed as a mitigation option for point source discharges throughout the subgroup discussion, and Policy 11 of the plan change outlines how they would apply. Information to guide this and any additional policy or method are outlined in Appendix 1.

If CSG intend to provide for mitigations that may take place somewhere other than the discharge, this could still be referred to as mitigation. This would be the case where multiple properties contribute to the construction of a wetland and receive the benefit in proportion to their contribution (see Policy 9 d)). If CSG prefer to use the term offset, a possible definition is provided below.

Definition of offset for Plan Change 1

In the February 2016⁵ report the definition was: 'An offset is an action that compensates (fully or partially) for a loss in environmental quality'⁶. The environmental damage is 'offset' by a positive action elsewhere. A more precise definition related to water quality could be⁷:

Offset: means, for a specific contaminant, actions that result in a measurable improvement in water quality designed to compensate for residual adverse effects on water quality arising from an activity, after all cost-effective and practicable measures to avoid and mitigate adverse effects have been taken.

³ WRC 2016. Report to CSG 'Economic instruments and draft methods to support the regulatory mix' #3844999

⁴ Notes of Property Plan (FEP) and plan drafting sub-groups - joint meeting 17 May 2016 #6260269

⁵ WRC 2016. Report to CSG 'Economic instruments and draft methods to support the regulatory mix' #3844999

⁶ Greenhalgh S, Selman M 2014. Review of policy instruments for ecosystem services. Landcare Research Science Series No. 42.

⁷ Adapted from the International Business and Biodiversity Offsets Programme definition; Business and Biodiversity Offsets Programme (BBOP). 2012. Standard on Biodiversity Offsets. BBOP, Washington, D.C.

When defining offsets, it is important to differentiate offsets from other actions taken as part of obtaining a consent. In the first instance, adverse effects must be avoided, remedied or otherwise mitigated. The goal of water quality offsets is to achieve the water quality objectives at least cost.

Use in Plan Change 1

If offsetting is used in the Regional Plan CSG may like to provide guidance⁸ to the applicant and Waikato Regional Council planning officers, which could include the relevance, necessity and amount of offsets and how they are to be assessed. Refer to Appendix 2 for possible guidance that CSG may wish to provide as part of offsetting in Chapter 3.11.

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⁸ Adapted from Bay of Plenty Regional Council 2014. Offsets Guidance for the Rotorua Airshed.

Appendix 1

Details to be drafted in policies and/or methods could cover:

- a) Relevance
 - The offset must be upstream, within the catchment, within the same or upstream Freshwater Management Unit; or
 - In a lakes Freshwater Management Unit
 - The further the offset from the discharge, the less the benefit that can be counted
 - The offset must aim to be like-for-like, and any benefit is considered less, the less similar the offset
- b) Necessity
 - Offsets are not allowed if the proposed consent is for the same activity on the same site as an existing consent (provided the amount and rate of the discharge is the same or less)
- c) Amount of offsets; Limitations on discharges that can be offset by:
 - volume,
 - concentration,
 - duration,
 - location, and
 - cumulative effect
- d) How to assess offsets
 - For diffuse, use of like-for-like offsetting or modelling (using OVERSEER)
 - the reductions must be practicably enforceable i.e. The Regional Council must be able to follow up on whether the offset has taken place
 - An offset should provide water quality gain beyond business as usual, e.g. a river restoration project would not have gone ahead without the offset
- e) Trading and banking offsets
 - Once offsets are established, they are a requirement of consent and cannot be transferred or traded or 'banked' as discharge reduction credits
 - The applicant similarly should not make any claims to be environmentally friendly or 'green' as a result of using offsets to gain consent for discharges

Appendix 2

The draft principles⁹ that may be included to guide applicants and Waikato Regional Council staff, are:

- a) *No net loss*: An offset should be designed and implemented to achieve in situ, measurable water quality outcomes that can reasonably be expected to result in no net loss and preferably a net improvement in water quality.
- b) *Additional water quality outcomes*: An offset should achieve water quality outcomes above and beyond results that would have occurred if the offset had not taken place. Offset design and implementation should avoid displacing discharges that negatively affect water quality to other locations.
- c) *Adherence to the mitigation hierarchy*: An offset is a commitment to compensate for significant residual adverse effects on water quality identified after appropriate avoidance and mitigation measures have been taken according to the mitigation hierarchy.

⁹ Adapted from: International Business and Biodiversity Offsets Programme definition; Business and Biodiversity Offsets Programme (BBOP). 2012. Standard on Biodiversity Offsets. BBOP, Washington, D.C.

- d) *Limits to what can be offset:* There are situations where residual adverse effects cannot be fully compensated for by a water quality offset because of the vulnerability of the water body affected, and therefore consent should be declined.
 - e) *Landscape context:* An offset should be designed and implemented in a landscape context to achieve the expected measurable water quality outcomes taking into account available information on the full range of values of water quality and supporting a whole of river approach.
 - f) *Stakeholder participation:* In areas affected by the activity and by the offset, the effective participation of stakeholders should be ensured in decision-making about offsets, including their evaluation, selection, design, implementation and monitoring.
 - g) *Long-term outcomes:* The design and implementation of an offset should be based on an adaptive management approach, incorporating monitoring and evaluation, with the objective of securing outcomes that last as long as the consent and preferably in perpetuity.
 - h) *Transparency:* The design and implementation of an offset, and communication of its results to the public, should be undertaken in a transparent and timely manner.
 - i) *Science and Mātauranga Māori:* The design and implementation of an offset should be a documented process informed by latest available science and Mātauranga Māori.
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References

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Waikato Regional Council 2015c. Policy options for sediment, microbes, nitrogen and phosphorus: Report to the Collaborative Stakeholder Group – for agreement and approval. Document # 3425911v7 (unpublished)

Waikato Regional Council 2016. Economic instruments and draft methods to support the regulatory mix: Report to the Collaborative Stakeholder Group – for agreement and approval. Document #3844999 (unpublished)

Waikato Regional Policy Statement 2016
