

Report to the Collaborative Stakeholder Group – for Agreement and Approval

File No: 23 10 02
Date: 20 April 2016
To: Collaborative Stakeholder Group
From: Chairperson – Bill Wasley
Subject: Update from Farm Environment Plan CSG 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.

1 Purpose

The purpose of this report is for the Farm Environment Plan Sub-group to update the CSG on progress.

Recommendation:

1. That the report [Update from Farm Environment Plan CSG Sub-group] (Doc #3774338 dated 20 April 2016) be received, and
2. That the Collaborative Stakeholder Group (CSG) confirm that:
 - a. The summary of progress to date from meetings on 12th and 15th April in this report, and the verbal update at CSG 28-29th of a meeting on 22nd April, provides sufficient information for the CSG to direct staff to finalise Plan Change provisions (objectives, policies, rules and non regulatory methods) that relate to Farm Environment Plans.
 - b. The CSG will consider and make any changes to the Plan Change provisions for Farm Environment Plans, at their next CSG meeting on 9 May.

2 Background

This report refers to 'Farm Environment Plans' not property plans. The sub-group changed terminology to align with other regions in NZ who use the term 'Farm Environment Plan' to mean a tailored approach to managing diffuse discharges on pastoral, horticulture and

cropping farms. CSG had originally chosen the term 'property plan' because it could encompass forestry as well. However, Plan Change 1 will not require forest owners to prepare a Farm Environment Plan. Instead, minor forestry-related adjustments to existing Waikato Regional Plan permitted activity rule conditions in Section 5.1.5, will be proposed.

This report summarises the two sub-group meetings since CSG had an update of progress on 4-5 April. There will be a further sub-group meeting Friday 22 April that will be reported verbally at CSG 28th-29th April.

Appendix 1 contains a summary of sub-group agreement, up to the end of their meeting on 15 April. Key points to note are:

- 1. From notification of the Plan Change, engage with farmers and obtain basic information about farms**
 - needed by WRC to improve accuracy about amount of land use in different land uses than can be obtained currently from Agribase.
 - The mechanism for this is to require farms to 'register' and supply base information to WRC by July 2018 – at the moment as Rule 0.
 - Further discussion on the amount of reference information to require and protocols and where the requirement fits in the rules.

- 2. Commercial vegetable growers will all require a resource consent and a Farm Environment Plan**
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- 3. Some farms are so small, and the implementation effort so large, that this Plan change will not require anything more than basic information (register)**
 - Rule 3 allows all properties less than or equal to 4.1 hectares (10 acres) to continue with no other conditions as long as they register basic information with WRC, meet the stock exclusion rules and don't change land use – Rules 0, 1 and 2.
 - There are a lot of 4 ha blocks, but their total area is approximately 1% of the land area (note that 4-20 ha blocks are another 1% of the catchment).

- 4. A reference point on current nitrogen outputs is useful data for the future when allocation is decided**
 - Because information about current nitrogen outputs at a property level is able to be supplied by landowners, Plan Change 1 should require this information as a reference point.
 - pastoral farms choose 2014/15 or 2015/16
 - Future allocation will involve nitrogen property-level limits, and may also involve limits on phosphorus, sediment and microbes.
 - The mechanism is through a permitted activity rule – at the moment as Rule 7
 - Further discussion on how many farms will be required to supply nitrogen information – at the moment it is everyone except properties less than 4.1 hectares.

- 5. The environmental effects of some farms can be adequately managed by permitted activities. There are 2 situations**
 - Farms with relatively low environmental footprint (Rule 3 and 4).
 - Only those farms that are below certain thresholds can continue without a consent (e.g. Rule 3 has a lear and restrictive conditions that must be met,

6. Resource consents, as long as those farms have a relatively low
 - Low intensity farms are those that can meet the strict conditions of the permitted activity rules
 - At the moment there are 2 rules that cover low intensity farms – Rule 3

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Appendix 1 - Farm Environment Plan Sub-group Agreements and next steps – as of 15 April 2016. Notes prepared by facilitator Helen Ritchie.

3 References

Waikato Regional Council (Online Version). Waikato Regional Plan.
<http://www.waikatoregion.govt.nz/Council/Policy-and-plans/Rules-and-regulation/Regional-Plan/Waikato-Regional-Plan/>

Appendix 1: Farm Environment Plan Sub-group Agreements and next steps – as of 15 April 2016

From sub-group meetings held on April 12th and April 15th

Topic and discussion points	Agreements to take back to CSG to confirm	Further work needed at CSG or Sub-group; next steps/ actions
<p>Alignment of dates and timing - When does ten years start? When do rules take effect?</p> <ul style="list-style-type: none"> Plan change gets notified, then goes through Environment Court. When we talk about 'immediate effect', can have a rule that legally council can start to enforce and implement right away. Should we change priorities 1,2 and 3 to say '3 years from operative' as an example instead of a date? Potential risks with enforcing but this is BAU for council. Legally Council has power to effect from notification and more weight gathers behind this as it goes through the Court process Likely to be an outcome where everyone will need to collect an N reference point and have a farm plan so get started. 	<ul style="list-style-type: none"> On balance, stick with dates, not 'year from operative' Better to have dates rather than waiting to become operative because we can't wait that long. Rule 1 comes into effect immediately; requires stock exclusion by listed dates Rule 2 is immediate; needs a register of 2016 land use Rule 3 needs a register date Rules 4-6 Farm plans to be staged – as per dates in policy mix Rule 7 – Regulatory measure comes in immediately - is a property level cap on N. To get back to that, need a different timeframe for farm plans for 75%ile group (see below) New Rule '0' – to register and gather base information by July 2018 (see below) 	<ul style="list-style-type: none"> CSG to note: Concern with getting too firm on dates without knowing if our policy mix will achieve our targets. Run with our suggested dates until we know the simulation results from TLG. Sub-group to confirm Rule 4 permitted activity – by when do you need these things in place? Coordinated with the sub-catchment dates? i.e. if you are in Priority 1 area, have either Rule 4 conditions or a property plan under Rule 5/6 by that date
<p>Alignment of dates and timing - Farm plan staging (registration)</p> <ul style="list-style-type: none"> If excluding stock by a certain date do we need a farm map within first 2 years showing perennial waterways. Need to gather the N reference data for the reference years in first stage before it gets lost. Could have staged farm plan. Firstly know what you've got, perennial, N reference, then work out priorities, what to do next. Issue with this is doing it twice – dry stock sector preparing to work way round, do it all at once, don't want consultants out 	<ul style="list-style-type: none"> Every farmer to start collecting reference data and mapping and provide to WRC (new rule '0'). It's a PA but you have to register what type of farm you are, where your streams are etc This also deals with issues of uncertainty about farm numbers, and land use. Need to be able to make this happen quickly and easily for farmers – dry stock industry will need support from WRC Start with collecting farm maps. Include where perennial streams are, where stock already excluded, current land use, which of Rules 3-6 is likely 	<ul style="list-style-type: none"> Further discussion required by sub-group members to clarify what reference information to collect and data collection protocols

<p>on farms twice</p> <ul style="list-style-type: none"> • Message from WRC executives - concern if we are doing much more than setting up capability in the first two years. Concern around criticism if we will spend a whole lot more time 'just getting ready' – need to signal progress 	<p>to apply to you? Lot of people out there who can be certified to do this step. Farmers can start collecting their own Overseer data.</p> <ul style="list-style-type: none"> • WRC will need a system to hold all the data and mesh with existing systems (Dairy, Horticulture). Electronic lodging or paper that is converted at WRC • Suggest date - by July 2018 – in reality this means Year 1 is setting up systems, all farms register in Year 2 	
<p>Rule 7 timing (75%ile)</p> <ul style="list-style-type: none"> • How do we give the 75%ile people enough time to make major adjustments, while still meeting our 10 year target? • This is a massive change management process. Will need time to create plans to be able to significantly reduce N and need time to make the changes 	<ul style="list-style-type: none"> • Rule 7 – all data collected by Jul 2018. At that point if you are above 75%ile flick straight into Rule 5/6 (i.e. added to Priority 1 group) – need a plan by 1 July 2020; N reduction plan sits within Farm Environment Plan • Have until 2026 to get back to the 75%ile mark • Need to monitor their plan and progress so they don't opt out in Year 9 • Noted importance of WRC resourcing enforcement 	<ul style="list-style-type: none"> • The default for those below 75th percentile will be hold and decrease. Plan drafting - ensure there is a rule about this. • CSG to consider: What happens if you can't meet Rule 7 cap or don't have farm plan in place – do we need a Rule 8 that is a different activity status? What activity status is it?
<p>Staged plan approach and consent duration</p> <ul style="list-style-type: none"> • Issue of leaving a third of farms to the last few years • Do they then get no time to adjust, or do they get 10 years and can continue as usual for 20 years? • Longer term consent gives some certainty for investing in mitigations. Under controlled activity status no benefit in having short term consent as must be granted • Can provide consents with review clause built in under S128 to impose contaminant cap once allocation comes in • Does a long-term consent with review clause rule out the option of saying 'your current land use is unsuitable'? • Worry this is permissive Need to be careful we don't encourage people to step outside of industry scheme – perception that those with 	<p>Allowing 1 year to set up:</p> <ul style="list-style-type: none"> • Rule 0 reference point by 1 July 2018 • Priority One by 1 July 2020 • Priority Two by 1 July 2023 • Priority Three by 1 Jul 2026 (Date when Allocation comes in. Also our 10 percent limit/ target date) • Expect allocation to come through at Year 10 and people to adjust to meet their allocation by Year 20 (i.e. 10 years to get there) • Property based allocations can be inserted into consents at review. Longer consent term provides certainty in terms of other contaminants and investing capital to mitigate; much of the FEPs will be about long-term planning i.e. beyond 10 years BUT Issue with long-term consent is perception of locking in people's rights to discharge and foreclosing options at next plan change 	<ul style="list-style-type: none"> • Getting legal advice (Mark B.) as to extent of change that can come in under a S128 review clause i.e. if it effectively prevents the person from exercising the original consent or is it OK to say 'not stopping you from farming but now you have to meet this standard' • CSG preference for short-term or long-term consents or if drafting a new policy (below) can deal with this • Plan drafting - include policy to be able to recognise need for long-term security by granting consents that stretch beyond 2026 (plan review date) with allowance for consent review at such time as allocation of a contaminant at property level comes in; and expectation it would come up in life of next plan change • Need to be same degree of scrutiny under industry

<p>consent have a 20-year right – why go under an uncertain PA regime?</p> <ul style="list-style-type: none"> • Whether PA or consent will be property level limit, discharge consent and reducing all contaminants. • Still easier for farmers under consent (not having industry turning up every year) and will give them the greatest certainty. • Iwi fear is long term consents plus not specified properly - ability for people to 'bank rights'. • Needs to be parity with point source. 20 years is a direct request from Hort sector. But point sources are discretionary consents so not the same • Can have a common expiry date - will incentivise people to get their consents early 	<ul style="list-style-type: none"> • Need to specify review conditions in consent that more structured than normal, so can review conditions to achieve targets. Signal regular reviews and in ten years there will be a significant review that will change the conditions of your consent. • Concern we are saying here is a long term consent that we will significantly review at some point with new numbers – is that legal? 	<p>scheme or consent (how often get reviewed etc). Clear message about this.</p> <ul style="list-style-type: none"> • Further discussion at sub-group on whether adjustments can be made to farm plan at each audit, revising actions to keep up with what is good practice in your sector (horticulture suggestion). Concern of resourcing this mechanism. Different consent review periods for different sectors? Parts of the FEP form consent conditions and others don't?
<p>Approach to horticulture</p> <ul style="list-style-type: none"> • Have a rule 5 and 6 but horticulture doesn't fit in either • Issue with Overseer not working well for veges 		<ul style="list-style-type: none"> • Rule 5a or 6a for commercial vegetables? • For commercial vegetables, talking about actions with N, not numbers; seeking long consent timeframe but with frequent review – how does this sit with CSG?
<p>Stock exclusion rule</p> <ul style="list-style-type: none"> • Current date not aligned with farm planning dates • Advice from implementers to CSG will be without some form of fencing the stock exclusion won't work • What is situation for land over 25 degrees? • In dairy we have said must have permanent fence so concern with the word 'minimise'. Should it be 'avoid the effect'? Allow consent if can avoid the effects (have to be able to demonstrate) Noted the public would not want cattle in streams but purpose is reducing contaminants; not about public perception 	<ul style="list-style-type: none"> • Align date to last farm plan and ten years (1 July 2026) • Under 25° use the words 'effective barrier' • Over 25° part of controlled farm plan (Rule 5) or industry scheme (Rule 6). • Or is it a separate consent with different activity status? • Intention to have people exclude stock from waterways , if they can't then expect people to avoid/ minimise/ mitigate effect and demonstrate this 	<ul style="list-style-type: none"> • If CSG agree, Plan drafting -change wording of rules to reflect date and words 'effective barrier' • CSG views on approach/ wording for land over 25°- is it OK to be part of Rule 5 and 6 or does it need a different activity status?
<p>Accredited schemes and farm plans</p> <ul style="list-style-type: none"> • Need the schemes to have clear parameters • What about quality 	<ul style="list-style-type: none"> • Schedule in Plan saying what an industry scheme would have • Ensure information to be provided is clear i.e. inputs 	<ul style="list-style-type: none"> • Staff/ WRC contractors to write up something on certification and accreditation and bring back to property planning sub-

<p>assurance? (Whether the farm plan has the right things in it and isn't missing anything) – also relates to accredited planners (below)</p> <ul style="list-style-type: none"> • Process <ul style="list-style-type: none"> ○ Prepare actions (accredited person) ○ Sign off and audit (third party) – WRC Consent or industry scheme ○ Compliance monitoring: risk based – activities risky or past behaviour ○ Review consent 	<p>to farm plan; outputs e.g. Overseer; actions and timeframes</p> <ul style="list-style-type: none"> • Audit component very clear • Would apply equally under Rule 5 and Rule 6 – use the same standards • One template across Rules/ schemes; provision for alternative templates for other sectors to be approved by WRC • Will need a process by which they are approved 	<p>group (Jon Palmer write and check in with Rob Dragten)</p> <ul style="list-style-type: none"> • Staff and sub-group members to work on information provision and data protocols for reference point and reporting under Rule 7 (Jon Palmer and others)
<p>Accredited farm planners</p> <ul style="list-style-type: none"> • Flexible rules place more reliance on expertise of planner. Meed to keep this close to the plan somehow • Accreditation helps farmer know someone is capable • No qualification for some of our key areas (soil con etc) • Hort starting to develop core competencies. Now irrigation, nutrient, soil management coming into it – design core competencies • If we are looking for one person with all of these the pool will be very small • Noted certification adds another layer of delay in getting people started 	<ul style="list-style-type: none"> • This will be described in a Schedule to the Plan • Describe types of expertise and relevant qualifications or core competencies (recognising they will differ for the sector/activities/ type of property) • WRC will need to work with what is already out there • If you can't get access to an accredited person by timeline – is there another path through i.e. go through accredited person or council/ discretionary • Could be done by accessing different expertise from different people 	<ul style="list-style-type: none"> • Staff/ WRC contractors to write up something on certification and accreditation and bring back to property planning sub-group (Jon Palmer write and check in with Rob Dragten)
<p>Audit</p> <ul style="list-style-type: none"> • Consultants will draw up the plan; the auditor will check off whether actions have been done on farm in person • Can people get things ticked off as they go through other audits/ other quality assurance processes aside from three year audit • Important data is commercially sensitive (WRC will withhold information under commercial sensitivity) • Rule 5 and Rule 6 have audit by 3rd party – ensure parity of audit frequency • Need to ensure we achieve parity so no one of the groups operating in/out of schemes get an easier ride 	<ul style="list-style-type: none"> • Sub-group suggests start with frequent audit and then less frequent for those showing high rate of compliance or based on other risk factors • N rule compliance <ul style="list-style-type: none"> ○ Deliver on 5 year rolling average. ○ Industry scheme collect data and report back (Overseer data) ○ All report annually • Plan effectiveness checked by aggregating data and seeing what change is happening e.g. at 3 yr intervals • Signal the intent in the Plan change and let the specifics be developed by WRC: <ul style="list-style-type: none"> ○ Frequent audit at first then based on track record e.g. annual at first then 3 	<ul style="list-style-type: none"> • Sub-group to confirm what level of reporting on N rule; detail of information to be supplied – relates to reference point data collection protocols • Plan drafting to ensure there are methods about auditing and monitoring of Plan effectiveness

<ul style="list-style-type: none"> • WRC to do random checks on farm plans to ensure actions are sufficient and are being done (Rule 5/6). Fund as part of Plan effectiveness monitoring • Need some kind of reporting mechanism to check on track to achieving targets for governors 	<ul style="list-style-type: none"> yearly <ul style="list-style-type: none"> ○ Policy that audit frequency and compliance checking should be comparable across rules but also reflect degree of risk ○ Method on this AND ○ Method on review of effectiveness 	
<p>Minimum standards</p> <ul style="list-style-type: none"> • Setbacks <ul style="list-style-type: none"> ○ Issue with 3 m across all land - loss of dairy land that could be productive pasture and no science for 1m vs 3m on flat land ○ Argument around cost and practicalities and lack of effect in steep land. On steep land there is more channelised flow – setback ineffective. ○ Minimum setbacks on less steep land. Focus on flow paths and critical source areas on class 6-7. All land need to identify Critical Source Areas (CSA) and channelised flow paths • Intermittent waterways <ul style="list-style-type: none"> ○ Different intensity of rain produces different flow patterns ○ Channelised flow paths (heavy rain) Note: ‘sheet flow’ relatively rare ○ Guidance to identify risk and manage appropriately • Cultivation <ul style="list-style-type: none"> ○ Difficult to specify in plan since it may be sporadic e.g. for pasture renewal ○ Can identify places on farm not to cultivate ○ Could use 15° as min std • Effluent <ul style="list-style-type: none"> ○ If brought under farm planning could have extra conditions e.g. storage. ○ Need to think about what gain we will make to achieving targets. ○ Late to begin this now. ○ Better to do it in longer, broader conversation ○ Council should make sure current rules enforced ○ Effluent plans and budgets 	<ul style="list-style-type: none"> • Dry stock have compared against dairy suggestions; specifics were discussed at sub-group and there is high level of agreement • If your catchment is in a hotspot for a contaminant then need to do more than the minimum standard. Template needs to direct people to do this • Grazing setbacks: <ul style="list-style-type: none"> ○ Below 15° min 1m ○ 15-25° min 3m ○ Above 25° focus on flow paths, CSAs and opportunities to trap/ remove contaminants ○ Apply to new fences or where existing fence isn't fit for purpose • Cultivation: <ul style="list-style-type: none"> ○ 5m setback ○ No cultivation above 15° ○ Template to include prompt to state how you will manage cultivation to reduce risk of losses • Critical Source Areas: <ul style="list-style-type: none"> ○ Must be identified ○ No run-off to waterways from CSAs without treatment ○ If you've ticked you have any of these things you have to have a mitigation in place for them • Intermittent waterways <ul style="list-style-type: none"> ○ Identify intermittent waterways on farm map and assess if they are CSAs (assess risk) and/or if they provide opportunities to remove contaminants ○ Set actions accordingly, including appropriate stocking policy • Effluent <ul style="list-style-type: none"> ○ Effluent not in minimum 	<ul style="list-style-type: none"> • Get minimum standards into one place and attach to back of template (Jon); ensure plan template directs people these are minimum standards; if your sub-catchment is high risk for one or more contaminants, need to think about what more you will do for those • Sub-group to confirm minimum standards • Need a clear definition of what is a CSA and how to assess risk (part of template – Jon P.) • CSG to discuss how relationship between template and minimum standards is worded e.g. Prepare a farm plan in accordance with this template and these minimum standards unless it is impracticable to do so/ unless a similar effect can be achieved through another means (or is there no unless)? • CSG to confirm if a catchment-wide rule is still needed for cultivation above 15° or if a minimum standard for pastoral and horticultural situations takes care of this

already part of dairy plans	standards, rely on current rules and full review of Regional Plan	
Template	<ul style="list-style-type: none"> • One template to apply to all (Rule 5 and 6); fill out sections that apply to you • Template needs to prompt people to provide information that can be aggregated to monitor effectiveness 	<ul style="list-style-type: none"> • WRC staff (Jon P.) preparing template. Sub-group to comment on template and confirm • Rob D. to consider how template can prompt the provision of information to monitor Plan effects
Defining slope for stock exclusion and setbacks	<ul style="list-style-type: none"> • Use LUC maps unless you can show otherwise? 	<ul style="list-style-type: none"> • WRC staff (Mark B./ policy) to consider sound approach
Parity – mirror conditions <ul style="list-style-type: none"> • Intent is that industry pathway not easier or more difficult than Rule 5 • Also to be conscious of people not being asked to pay twice <ul style="list-style-type: none"> ○ PA rates are used for a range of things where people hold consents for other things ○ Most PA rate currently used for effluent ○ Could come into considerations of how much people have to pay for consent 	<ul style="list-style-type: none"> • Same template and minimum standards to apply across Rules 5 and 6 and sectors • WRC when setting consent fees and PA rates to consider these issues • Also to allow for streamlining consenting for groups of farmers in Rule 5 	<ul style="list-style-type: none"> • Sub-group to consider if we need to cover mirror rules or parity in any other ways • Staff (Mark B. and policy) to consider what other wording might be needed in the Plan change to cover these matters
Definition of a property/ enterprise <ul style="list-style-type: none"> • Horticulture commonly operate on multiple titles • Makes sense to do your farm plan for all of your land together • For N-limit, this can create some issues i.e. owning forestry and well as dairy and coming in under 75%ile if you include both • Some dairy farmers have bought a run-off as a mitigation, to reduce their overall intensity. • What are the equity issues if you compare someone with own run-off vs someone that sends their stock to a run-off owned by someone else? 	<ul style="list-style-type: none"> • This most pertains to purpose of measuring N reference point (NRP) • Would it be better to apply to dairy milking platform, for the purpose of identifying 75%ile number (comparing like with like)? • For the purpose of bringing your N loss under the 75%ile, you could buy a property to offset your high N emission and put it into forest as an offset, but an offset is only a reduction if it happens in future (i.e. not buying/ owning a property that is already forest). Purchasing a run-off is not an off-set. Run-off will still have to keep below the 5 year rolling average 	<ul style="list-style-type: none"> • Sub-group to discuss further: <ul style="list-style-type: none"> ○ Establishing 75%ile – should it include run-off or be based on your milking platform?
Thresholds for Rules 3 and 4 <ul style="list-style-type: none"> • Reason for thresholds is that FEP is not cost-effective if too small/ too many having little effect • Current stock threshold is 8SU for Rule 3 – data 	<ul style="list-style-type: none"> • Rule 3 to register, no data • Rule 4 to supply basic data • Neither need FEP • Note Rule 3 thresholds should be OR, not AND • Recommend lower threshold for Rule 3 – 	<ul style="list-style-type: none"> • Plan drafting – change Rule 3 to OR, not AND • CSG give input around lower threshold for Rule 3 • CSG to give input around 20ha threshold for Rule 4, as long as you are below a

<p>shows quite a %age of dry stock farms below this</p> <ul style="list-style-type: none"> • < 4.1ha = 1% of catchment • Vege growers also small area (1% of the catchment), but high intensity/ risk so need an FEP • If take it up to 20ha exclude roughly 2000 properties & 2% of catchment area 	<p>suggest 6 SU/ha and 50kgN/ha/yr</p> <ul style="list-style-type: none"> • Recommend size 20ha in Rule 4 as long as you are below intensity threshold • Define low intensity threshold for Rule 4 that can be measured as an Overseer output, or a proxy/ look up table. • If so, may not need slope threshold in Rule 4 • Keep other GMPs in Rule 4 	<p>low intensity threshold (to be developed)</p> <ul style="list-style-type: none"> • Sub-group to work on low intensity threshold for Rule 4 (Jon P. to give an idea) • Sub-group to confirm Rule 4 thresholds and how they work together (AND or OR)
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