

Report to the Collaborative Stakeholder Group – for Agreement and Approval

File No: 23 10 02
Date: 30 July 2014
To: Collaborative Stakeholder Group
From: Interim Chairperson – Bill Wasley
Subject: Introduction to Planning Requirements (Part 2) Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments and RMA Section 32 analysis
Section: **Agreement and Approval**

1 Purpose

To assist the Collaborative Stakeholder Group (CSG) understand planning requirements for their recommendation to the Healthy Rivers Committee by providing and update of recent government policy and a draft contents page for the Resource Management Act outputs of Healthy Rivers Wai Ora project.

Recommendation:

1. That the report [Introduction to Planning Requirements (Part 2) Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments and RMA Section 32 analysis] (Doc # 3119268 dated 30 July 2014) be received, and
2. The recommendation is:

That the Collaborative Stakeholder Group receives the two draft contents pages contained in this report (the contents pages refer to two documents yet to be written, that will be publically notified by Waikato Regional Council and are the Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments and the associated RMA Section 32 analysis), and

 - a) Uses the context pages outline as a basis for checking off the aspects it must cover in forming its recommendations to Healthy Rivers Wai Ora project decision-makers and;
 - b) Updates as needed the draft contents page for the Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments.

2 Background

This report is the second part of an introduction to planning requirements for the Healthy Rivers project. Therefore it should be read in conjunction with a report to CSG workshop 4 entitled “Introduction to planning requirements for developing Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments” (document number 3088942).

Topics in that document included:

- a) Introduction to the policy design process.
- b) Guidance from the National Policy Statement for Freshwater Management (NPS-FM) 2011.
- c) River legislation requirements relevant to making changes to Resource Management Act 1991 (RMA) plans.
- d) Minimum requirement of items to be included in an RMA plan and a list of other items the CSG may decide to include.

Since the “Introduction to planning requirements” document was written, central government has finalised changes to the National Policy Statement for Freshwater Management (NPS-FM). A summary of the NPS-FM 2014 is contained in section 4 of this report.

3 Content of RMA documents

In making a recommendation on the content of Waikato Regional Plan Change 1 – Waikato and Waipa Catchments (Plan Change 1), the CSG will choose the package of policy instruments to achieve short and long term outcomes for water bodies within the catchment.

Waikato River legislation states that the Council and each River iwi must jointly decide on the general form and content of the RMA document.

Healthy Rivers project staff have assumed that the CSG will direct staff to write the Plan Change document and associated section 32 analysis. While much of the effort of the CSG will be focused on content, the group will also need to make some decisions on the general form of the Plan Change. Council and iwi decision-makers have the final say on the general form and content of the Plan Change.

3.1 What is required in each RMA document

Plan change

There is some national and legislative context in deciding the form and content of a publically notified Regional Plan. The National Policy Statement for Freshwater Management 2011 requires Councils for both water quality and water quantity, to set objectives, limits or targets and methods to achieve these.

Sections 67 of the RMA requires regional plans to contain objectives; policies to implement the objectives; and rules (if any) to implement the policies. Under the RMA, a rule is simply a regulatory method. A focus on these three items aims to make plans shorter, less complex, and easier to read. The drawback is that the absence of other items such as non regulatory methods, might serve to make the plan very narrow in focus. If objectives are met, partially

or wholly, by methods outside the plan, readers will not get a good understanding of how the whole policy package works by reading the plan change.

Section 32

Section 32 of the Resource Management Act 1991 requires an evaluation of the objectives, policies, and methods to be included in an RMA planning document. The steps are generally:

1. Write up the conclusions and reasons for selecting or not selecting the particular objectives. The level of detail will correspond with the scale and significance of the anticipated effects from implementing the proposal.
2. Identify reasonably practicable options to achieve the objectives. The initial range of options will include both regulatory and non-regulatory options. Retaining existing policies and methods (status quo) will be considered a practicable option.
3. Assess the practicable options. This assessment will generally involve decisions around achievability, enforceability, compatibility, guiding decision making and implementation. Again it is best practice to apply a consistent set of criteria across the options. If the conclusion from this assessment is that the proposed provisions (policies and methods) are the most practicable option the reasons why need to be summarised.
4. Identify the environmental, economic, social and cultural effects (including economic growth and employment) that are anticipated from implementing the chosen option/s. Identification of effects is needed prior to undertaking the analysis of efficiency and effectiveness. Assess the efficiency and effectiveness of the provisions (a 'provision' is defined in s32(6)) to determine if they are the most appropriate way to achieve the objectives (s32(1)(b)(ii)). Section 32 does not require the provisions (policies and methods) to be assessed individually but assessing individually can provide greater understanding and transparency in decision making.
5. This assessment of efficiency and effectiveness must assess the benefits and costs (quantified if possible) of the environmental, economic, social, and cultural effects that are anticipated from implementing the chosen provisions.

4 National Policy Statement Freshwater Management 2014

The National Policy Statement for Freshwater Management (NPS-FM) supports improved freshwater management in New Zealand. On Thursday 03 July 2014, the Minister for the Environment and Minister for Primary Industries jointly released the NPS-FM (2014). This became effective from 1 August 2014.¹

4.1 Key changes between the 2011 and 2014 versions of the NPS-FM

The NPS-FM 2011 required the overall quality of freshwater within a region to be maintained or improved. The amended NPS now provides more detail and direction for regional councils on how that is to be achieved.

A National Objective Framework directs how councils are to go about setting objectives, policies and rules about fresh water in their regional plans. They must do this by establishing freshwater areas (referred to as freshwater management units) across their regions and

¹ (<http://www.mfe.govt.nz/publications/rma/nps-freshwater-management-2014/nps%20freshwater%202014%20final1.pdf>)

identifying the values (for example irrigation, mahinga kai, swimming etc) that communities hold for the water in those areas.

Next, councils are required to gather water quality and quantity information on the water bodies to assess their current state and decide the water quality objective or goal for each value the community has chosen based on the economic, social, cultural and environmental impact to that community. The final step is for the community to assess how, and over what timeframes, those goals are to be met.

Councils are required to maintain or improve water quality within their regions and cannot set an objective for water quality below a national bottom line. There are only two circumstances where an objective may be set below a national bottom line: where the water quality is naturally below the bottom line, for example a native bird colony nesting in a river bed causing high E. coli levels downstream; or where significant existing infrastructure means water quality is below the bottom line. If a community is of the view that the process to manage a water body to a level above the bottom line would place an unmanageable burden on their community they can apply to the government for that area to be specified and for a transitional basis to be used to achieve the bottom line.

4.2 NPS-FM Process to be followed in the Healthy Rivers project

1. Select values

The NPS-FM 2014 contains Appendix 1: National values and uses for fresh water. Councils are directed to identify values for each freshwater management unit.

A separate report to the Collaborative Stakeholder Group contains the CSGs draft list of values (see Report to CSG 5 “Identifying how national values apply to the Waikato and Waipa River catchments” doc #3102316). Following the direction of the NPS-FM, the CSG must include the two compulsory national values (ecosystem health and human health for recreation), and may include any other national values as listed in Appendix 1 of the NPS, as well as any other values it considers appropriate.

2. Select attributes

The Technical Leaders Group will assist with which attributes should be chosen. An attribute *“is a measurable characteristic of fresh water, including physical, chemical and biological properties, which supports particular values”* (NPS-FM 2014, pg 7). The NPS-FM compulsory values already have attributes identified in Appendix 2: Attribute tables, which must be used. Not all the values listed in the NPS-FM have attributes listed in Appendix 2, but this work is underway and the NPS-FM will be reviewed and added to over time. In the meantime, it will be up to technical advisors to advise on appropriate attributes for values chosen by the CSG.

3. Select attribute states

An attribute state *“is the level to which an attribute is to be managed”* (NPS-FM 2014, pg 7). For the compulsory national values where the attributes have been named, four band states have been described: A, B, C or D. These have associated numeric ranges for characteristics as well as narrative states describing each band. A council cannot select an attribute state which falls below the bottom of band C, the minimum acceptable state for the compulsory values. This is known as the National Bottom Line.

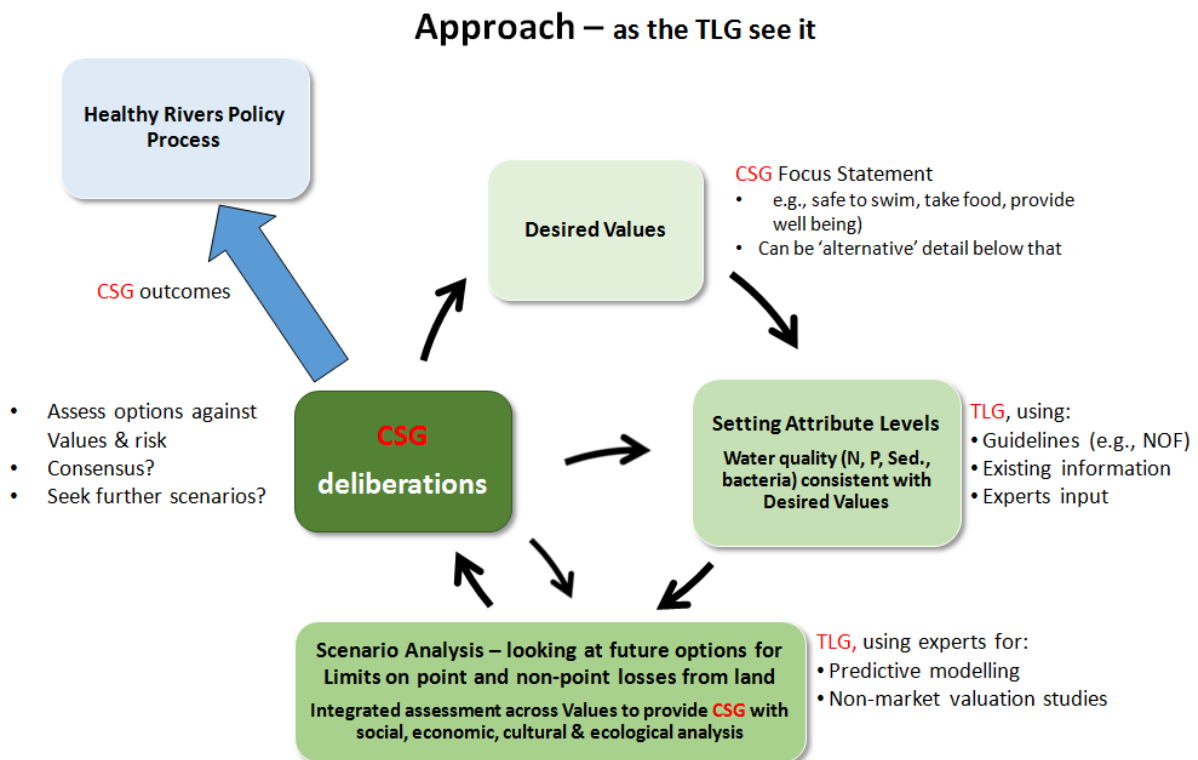
4. Writing objectives, policies and methods

Identifying values, attributes and attribute states all contribute to formulating freshwater objectives. The NPS-FM requires objectives to be written in numeric terms by reference to a specified numeric attribute state where that state is specified in the NPS-FM. For additional national values and other values, where attributes and attribute states have not been outlined in the NPS-FM, the freshwater objective should be written in numeric terms where practicable, otherwise in narrative terms.

In this process the NPS-FM requires that the following matters must be considered:

- The current water quality state, and the predicted state based on past and current use.
- The spatial scale at which the freshwater management unit is defined.
- The limits that would be needed to achieve the freshwater objectives.
- Any choices between the values that would be needed because of formulating objectives and limits.
- The implications of objectives and limits for resource users, people and communities.
- The timeframes required to achieve freshwater objectives.

At the CSG workshop 4, the chairman of the Technical Leaders Group presented their understanding of the process required in the NPS-FM. One of the diagrams presented is reproduced below.



5 Plan Change 1 Draft Table of Contents

Objectives, policies to implement the objectives and rules (if any) to implement the policies, are the only items that a Regional Plan is required to contain².

The following text is for discussion purposes and includes RMA plan items that are required, as well as some items that are optional to include.

Objectives are written as outcome states required to enable regional values and priorities to be met.

Policies are written as the course of action to achieve objectives.

Methods are written to identify who will do what and by when. Methods can be non regulatory or rules.

1.0 Introduction to the Plan Change

- Map of the geographic area covered
- Vision and Strategy
- Relationship to the remainder of the Waikato Regional Plan
- Summary of issues

2.0 Objectives

- Catchment wide objectives
- Specific objectives for each Freshwater Management Unit

3.0 Policies

- Catchment-wide policies
- Specific policies for each Freshwater Management Unit

4.0 Methods

- Non regulatory methods
- Rules

5.0 Glossary of terms

6.0 Detailed maps showing Freshwater Management Units

7.0 Consequential amendments to remainder of Waikato Regional Plan

6 Section 32 Draft Table of Contents

The draft table of contents below is being used as a guide for the Healthy Rivers policy work stream. As at July 2014, sufficient information has been generated in the project set-up and by the Collaborative Stakeholder Group, for WRC policy staff to make a start on filling in some parts of A to C.

Part A: Introduction and Planning Context

1.0 Introduction

1.1 Purpose, background and history of the planning document

² See "Introduction to planning requirements for developing Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments" (document number 3088942).

- Reports and decisions of Council.
 - Scale and significance (for the whole project).
 - Area covered.
 - Decision/recommendation making:
 - Local Government Act 2002 (sections 4, 10, 14, 16, and 76 to 81)
 - Joint management committees
 - CSG, Technical Leadership Group etc.
- 1.2 Statutory requirements³
- Regional Council functions (s30) along with sections 32, 32AA, 59, 64 and Schedule One.
 - Settlement Legislation (Vision & Strategy).
 - RPS, NPS, NES, NZCPS.
 - Other Acts? (Local Government Act 2002, Reserves Act 1977, Historic Places Act 1993, etc.).

Part B: Development of Plan Change 1: Waikato and Waipa River Catchments

- 1.3 Consultation/ CSG workshops
- Iwi.
 - Other.
- 1.4 Approach to evaluation
- Guiding principles (collaboration co-management etc.).
 - Methods of assessment (tools/templates used).
- 1.5 How to navigate through the evaluation report.
- Connections between report and planning document (chapters, numbering, topics etc.).
 - Templates/tools used.

Part C: Current State, Issues and Outcomes

- 2.0 Issues
- Introduction of subject matter.
 - Monitoring and effectiveness of existing policies/provisions.
 - Identification of resource management issue to be addressed.
 - Scale and significance of effects.
 - Research reports.
 - Consultation and engagement.
- 3.0 Outcomes to be achieved
- Expected outcome in terms of sustainable management.
 - Link to regional council functions (s30).

Part D: Evaluation of Alternatives and Objectives

- 4.0 Alternatives considered
- Regulatory options.
 - Non regulatory options.
 - Do nothing.
 - Draft objectives – link to expected outcomes.

³ See doc#2372369 for full discussion of the statutory framework for PC 1

- 5.0 Appropriateness of objectives to achieve the purpose of the Act
- Link preferred options to s5, 6, 7 and 8 of the RMA.
- 6.0 Conclusions and Objectives
- Text of the objective/s to be included in the planning document (include planning document number).
 - Reasons for selecting (corresponding with scale and significance) - Based on Part II of the RMA.

Part E: Evaluation of Options to achieve Objectives

- 7.0 Options to achieve the objectives
- The range of alternative options that were considered (regulatory and non regulatory).
 - Why some options were considered practicable options and why some were not.
 - State the preferred options for evaluation and discuss why they are considered practicable options (achievable, enforceable and guide decision making).
- 8.0 Scale and Significance of anticipated effects
- The scale and significance of existing effects.
 - The scale and significance of anticipated effects resulting from implementing preferred options including opportunities for economic growth and employment that are anticipated to be provided or reduced.
- 9.0 Assess efficiency.
- The method/s chosen.
 - The benefits and costs (qualitative or quantitative) of effects including the impact on opportunities for economic growth and employment (qualitative or quantitative).
 - Reason why it is considered efficient
- 10.0 Assess Effectiveness
- The method/s chosen.
 - The benefits and costs (qualitative or quantitative) of effects including the impact on opportunities for economic growth and employment (qualitative or quantitative).
 - Reason why it is considered effective
- 11.0 Risk of acting or not acting
- The sufficiency of information.
 - Any gaps in information.
 - List information sources.
 - If there is sufficient and certain information include a statement to this effect.
 - The risk of acting if there is insufficient information.
- 12.0 National Environmental Standards
- Statement to give effect to s32(4).
- 13.0 Summarise the reasons for selecting the most appropriate provisions
- Confirm the provision/s to be included in the planning document.

- Summarise the reasons for selecting and rejecting provisions - link to legislation e.g. regional council functions (s30), regional plan requirements (s9, 13, 14, 15, 15B, 15C, 55, 59-80), NPS-FM).

14.0 Concluding Statement

- Concluding statement to read: “having undertaken the above evaluation it is considered that the objectives are the most appropriate way to achieve the purpose of the Act and having regard to efficiency and effectiveness the provisions are the most appropriate for achieving the objectives of the Plan.” Or words to that effect.

15.0 Detail and date report was adopted by Council for notification.

Part F: Glossary and Appendices

16.0 Glossary of terms

- List of acronyms used.
- Any defined words in the planning document used in the evaluation.

17.0 Appendices – (Maps showing geographical extent, full list of reports and Background information referred to in the report etc.)

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