

Report to the Collaborative Stakeholder Group – for Agreement and Approval

File No: 23 10 02
Date: 27 July 2015
To: Collaborative Stakeholder Group
From: Chairperson – Bill Wasley
Subject: Waikato and Waipa catchment wide rules to investigate as part of policy options for sediment, microbes, nitrogen and phosphorus
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:

1. Note the existing region wide rules in the Waikato Regional Plan, particularly those that relate to the practices and technologies that the CSG identified as possible general rules options.
2. List the region wide rules discussed by the CSG that manage property-level diffuse discharges that will be investigated further by the CSG with support from Council Staff.
3. Provide an example wording of a rule for one of the CSG ideas - stock exclusion as a starting point for the Group.
4. Report where discussions have got to on region-wide rules for forestry operations, and outline what content is in the Proposed Forestry National Environmental Standard for Plantation Forestry.

Recommendation:

1. That the report [Waikato and Waipa catchment wide rules to investigate as part of policy options for sediment, microbes, nitrogen and phosphorus] (Doc #3450520 dated 27 July 2015) be received, and
2. That the Collaborative Stakeholder Group agree:
 - a) That the list in Table 1 contains possible new region-wide rules, and that this list may be changed by CSG as they to continue to identify and develop practices and technologies that are appropriate to require across the Waipa and Waikato river catchments, to reduce sediment, *E.coli*, nitrogen and phosphorus

- b) Council staff investigate these rules further and develop rules with advice from the CSG on detail.
- 3. That the Collaborative Stakeholder Group
 - a) Confirm that policy staff investigate a policy approach for managing plantation forestry operations which:
 - i. Consists of a permitted activity rule with conditions, with a cascade into more stringent activity classes if those conditions are not met or in certain circumstances
 - ii. Involves working with CSG forestry representative, WRC extension, implementation and compliance staff to develop this option
 - iii. Brings back more detail to the CSG as this option develops.

Table 1 – List of Waikato and Waipa catchment wide rules to investigate further

Practice (activity) or technology	General descriptor of the rule
Stabilising erosion risk areas	Rules to manage erosion risk areas
Stock exclusion from waterways and minimising effects where stock cross a stream	Rules that require a culvert ¹ or bridge for regular stock crossing Rules to exclude deer and cattle (including dairy cows) from water
Trapping sediment – including overland flow	Rules to manage actively eroding sediment sources
Setbacks from water	Rule for all sectors (forestry, horticulture, dairy, sheep and beef) that setbacks [required setback distance between a waterway and any activity e.g. soil disturbance] from waterways
Setbacks from water for intensive grazing in winter	Rule for setbacks from waterways (e.g. strip grazing by streams in winter)
Winter cropping - restrictions on stock size/location/grazing	Rule that restrict location of winter crops relative to water ways Rules that stop in-situ fodder crop grazing in winter Rule that restrict stock of certain size grazing winter crops
Limit stock on steep slopes/certain land use classes	Rules to limit stock on steep/very steep land e.g. from carrying stock at a certain unit threshold/size/type

2 Background

Policy options for managing sediment were discussed at day 1 of the June 2015 workshop (CSG 12). Policy options for managing nitrogen, phosphorus and microbes leaving a property were discussed by the CSG on day 2 of the July 2015 workshop (CSG 13).

Out of these 2 sessions, a list of initial region-wide rules or methods was developed. This list is contained in Table 2 and 3 in Appendix 1.

¹ Whilst action aimed at addressing habitat that will not affect discharges at all addressing barrier to fish migration, such as culverts are out of scope (WRC 2014, DM 3037840). The option proposed here is focusing on the particular activities or technology contribution to the four contaminants.

The process for the group to workshop the options was to work through a series of questions (Facilitation session notes CSG 12, 13).

These generic rules are variations of Policy B and Policy H as described in the tables in Appendix 1.

Policy B Rules that apply to everyone that spell out what has to be done and how (the technology or ‘hardware’ on a farm, and the process or management practices).

Policy H Rules for activities (practices or technologies) that apply to everyone e.g. for sediment - stock exclusion deer and cattle, e.g. for microbes – all stock excluded.

In a separate report farm plan specific rules (Policy I) are currently one concept being considered as rules that are audited by industry (WRC 2015b).

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 incorporated 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. Input from one such meeting with the CSG forestry representative, Trish Fordyce, and Council policy staff on the 17 of July has been incorporated into this report.

In this report there is a brief overview of the region wide rules in the Waikato Regional plan. Those relevant to the practices and technologies that lend themselves to general rules options identified by the CGS are broadly described . Then some the forestry

3 Region-wide rules for all land uses

As discussed by the CSG over the last few meetings, sediment, microbes, phosphorus and nitrogen can enter water when through direct deposition or overland flow after rain when soil is disturbed. The Regional Plan contains a number of rules² that are focused on managing the effects of activities that increase the risk of sediment entering water.

Region-wide rules already exist³. Therefore the job ahead for the CSG is to assess:

- What effects on water quality are already managed by rules or methods in the Regional Plan
- How implementation of rules is working
- What tweaks to rule conditions, re-work of wording to make the rule clearer or addition of implementation support is needed
- What gaps CSG have identified that need to be filled to achieve the water quality limits

In addition there are resources to help discussion of existing region wide rules. For example the Council has information about how existing provisions in the Regional Plan are working

² Land Module of the Plan Chapters 5.1 and 5.2.

³ The activities in this report come under s9, 13 and s15 of the RMA. Under s9 of the RMA no person may use any land in a manner that contravenes the rules in a regional plan (or proposed regional plan) unless the activity is allowed by a resource consent. If the CSG includes discharge rules these fall under Section 15 of the RMA that no person may discharge any contaminant or water into water unless allowed by a regional plan, resource consent or regulations. There are no permitted discharges under the RMA, the default is discretionary activity for all discharges. Under s13(1) RMA no person may use, erect, reconstruct, place alter, extend, remove or demolish any structure or part of any structure in, on, under or over the bed unless expressly allowed by a NES, a rule in a plan or a resource consent. Under s13(2) no person may do an activity described in subsection 2A in a manner that contravenes an NES or a regional rule unless the activity is allowed by a resource consent or is an activity allowed by s20A. The activities covered by s13(2) include to enter onto or pass across the bed of a river or lake.

in a review of the Waikato Regional Plans rules from an implementer's perspective (FOCUS 2104).

Note: In the development of these existing plan provisions the focus of these rules is managing soil stability to reduce accelerated erosion.

3.1 Consistency across all sectors for soil disturbance, earthworks and other soil disturbance activities

There are existing rules for soils disturbance, earthworks and other activities that cause soil disturbances (and potential for sediment mobilisation). Many of these are permitted activities where no resource consent is needed if conditions are complied with. The intent of the Regional Plan was to manage adverse effects of activities on land or in beds of water bodies, and for the most part the existing Regional Plan rules do not distinguish between land use sectors. An example of an exception to this is the more stringent rules for forestry harvesting in the Coromandel Peninsula.

Whilst the rules are intended to apply across all sectors, in some cases some sectors may do more to comply with requirements. In other situations the new rules may require more action be undertaken by a particular sector to manage a risk because to the nature of the problem and the risk their type of farming presents. For example, requirements to manage farm tracking and the runoff from those tracks into pasture might be different to runoff into forested areas.

3.2 Awareness of permitted activities rules

In discussions with council implementation staff, the point was made that companies who regularly undertake soil disturbance activities are aware of and operating within the rules of the plan. One example quoted was "over the last five years I'm seeing operating standards improving, for example, those medium to large forestry companies are putting hay or straw mulch down on bare soil" (Udy, V. personal communication 16 July 2015).

WRC has published a booklet targeted at a farmer audience about which day to day activities farmers undertake are controlled by the Regional Plan. The preamble of the guide states:

"...getting your head around the Waikato Regional Plan permitted activity rules and their conditions can be a challenge. That's why we've put together this quick reference guide for the permitted activities most farmers in the region carry out. This guide covers the key conditions of the permitted activity rules. It also gives you the rule numbers so you can easily look them up in the Waikato Regional Plan." (WRC permitted Activity Guide for farmers downloaded from WRC website www.waikatoregion.govt.nz 21 July 2015).

3.3 Relevant permitted activity rules

In this section are summaries of the existing permitted activities in the plan for the activities, practices and technologies that the CSG has discussed as possible rules that apply generally. Some of the options proposed by the group are quite different from the existing approaches in the plan, for example the group is proposing rules about the management of stock using structures in stream i.e. process standards, the existing rules have design standards for those structures. This is not a full list of rules, just those covered in the farmer

guide (WRC 2014a) which is a summary of the permitted activity rules – refer also to table in Appendix 3 that include rules of other activity status.

Source: WRC 2014a Farmer’s Guide to permitted activities. Note these are generalised description of the rules (refer to Appendix 3 for a table summarising the rules and key conditions).

Stock in water bodies

Your livestock must not enter or cross any water body mapped as a ‘livestock exclusion area’ on Waikato Regional Plan maps.

We can provide maps and information on the location of these areas, but in general they include:

- any stream flowing into Lake Taupō
- streams flowing into a harbour or estuary and within 2km of the coastal marine area
- margins of significant wetlands in the region and most Waikato peat lakes
- some specified streams on the Coromandel Peninsula and other specified streams throughout the region.

For the rest of the region, livestock access to water bodies is subject to strict conditions to protect water quality. The key conditions are noted below.

KEY CONDITIONS

Waikato Regional Plan	RULE NUMBER
Your livestock must not reduce the water clarity or increase its suspended solids concentration by more than 10 per cent.	4.3.5.4
You must repair any erosion caused by your livestock as soon as possible.	4.3.5.4
You must provide practical measures to discourage livestock from spending time in the beds or on the banks of water bodies. Some examples of the practical measures you could take are listed in the advisory notes .	4.3.5.4

Earthworks and vegetation clearance

Earthworks and vegetation clearance must be managed so they don't cause erosion, pollute our region's water or affect other people.

In **high risk erosion areas** you can carry out some small scale earthworks or vegetation clearance without a resource consent providing:

- the volume of the earthworks is less than 250m³
- the earthworks cover less than 0.2ha
- roads and tracks are less than 100m long
- cut slope batters are less than 3m high and 30m long
- the vegetation being cleared is less than 1ha
- the vegetation being cleared is within 5m, on either side of the banks of a water body, and is less than 50m in length per kilometre of the water body
- you're clearing planted production forests or plant pests specified in the Regional Pest Management Strategy (for example gorse or blackberry).

To find out what high risk erosion areas are see the **advisory notes**.

Outside high risk erosion areas you **may** be able to carry out larger scale earthworks or vegetation clearance without a resource consent, **but** only if the activities comply with all the permitted activity conditions.

In **karst landscapes** (for example Waitomo) earthworks and vegetation clearance can be carried out without a resource consent if you're more than 10m away from a sinkhole or cave entrance.

In **geothermal areas** earthworks and vegetation clearance can be carried out without a resource consent if you're more than 20m away from a geothermal feature.

In some **specified catchments** in the **Coromandel** you can clear vegetation without a resource consent, but only if you're clearing less than 50ha in a year where the land slope is more than 20 degrees.

In **all cases**, you must comply with all the conditions outlined in the Waikato Regional Plan. The key conditions are noted on the next page.

KEY CONDITIONS

Waikato Regional Plan	RULE NUMBER
You must install controls to prevent erosion and sediment run off during the earthworks and after they've been completed. Controls include silt fences, cut-off drains, surface mulch and stormwater settling ponds. Any erosion that occurs as a result of your works must be repaired as soon as possible and you must revegetate the whole site within 6 to 12 months.	5.1.5
You must design and install cut-offs or culverts to prevent scouring, gullyng or other erosion.	5.1.5
The amount of sediment that discharges from your activity is very restricted and must not breach the water standards for that water body. We can provide maps and information on the location of the different classes of water bodies and the standards that apply.	5.1.4.12 5.1.5
You must not cause or contribute to flooding on neighbouring properties.	5.1.5
The placement of any fill and/or organic material must not lead to land instability. Organic material is anything that decays over time like timber, sawdust or vegetation.	5.1.5
If clearing vegetation within 5m of a flowing water body, all vegetation must be felled away from the water body and managed to prevent erosion or the destruction of aquatic habitat.	5.1.5
There are specific conditions for replanting production forestry on the Coromandel. If this applies to you, make sure you look up this rule in the Waikato Regional Plan.	5.1.4.11
Materials such as fuels, oils or agrichemicals must not enter water at any time.	5.1.5
You must not cause odour, smoke or dust nuisances to other people.	5.1.5
You must not cultivate paddocks within 2m of any river, stream or lake bed.	5.1.4.12
You must not disturb any archaeological or waahi tapu site. If such a site is identified by Waikato Regional Council while work is in progress, you must stop work immediately. You cannot recommence work without approval from Waikato Regional Council.	5.1.5

Culverts and bridges

Culverts and bridges on your property must not affect water flow and quality, bank stability, aquatic life or other people.

You must also comply with all the conditions outlined in the Waikato Regional Plan. The key conditions are noted below.

CULVERTS

KEY CONDITIONS

Waikato Regional Plan	RULE NUMBER
The upstream catchment area must not be greater than 100ha.	4.2.9.2
Culverts must not be installed in any water body that is classified as 'natural state' on Waikato Regional Plan maps.	4.2.9.2
Culverts must not discharge outside the natural catchment.	4.2.9.2
Culverts must be designed to ensure safe passage of flood flows during a one in 50 year flood event.	4.2.9.2
The bottom of the culvert should be submerged in the stream deeply enough so that water flows through it and material from the stream bed accumulates inside.	4.2.9.2
Culverts must provide for fish passage upstream and downstream.	4.2.9.2

BRIDGES

KEY CONDITIONS

Waikato Regional Plan	RULE NUMBER
You can construct bridges for stock and farm vehicles without a resource consent, but only if they're single span and no longer than 10m.	4.2.8.1
If a bridge is to be located in a flood control or drainage area managed by Waikato Regional Council or your local council, you must notify Waikato Regional Council in writing at least 10 days before construction.	4.2.8.1
The underside of the bridge beams must be at least 0.5m higher than the stream banks or at least 0.5m above the one in 50 year flood level, whichever is lowest.	4.2.8.1

CULVERTS AND BRIDGES

KEY CONDITIONS

Waikato Regional Plan	RULE NUMBER
The structure must be fixed in place and kept in a structurally safe and sound condition.	4.2.9.2 4.2.8.1
The structure must not contribute to flooding on neighbouring properties, and any erosion around the structure must be repaired as soon as possible.	4.2.9.2 4.2.8.1
You must not disturb any archaeological or waahi tapu site. If such a site is identified while works are in progress, you must stop the works immediately and notify Waikato Regional Council. You cannot recommence work without approval from Waikato Regional Council.	4.2.9.2 4.2.8.1

Source: WRC 2014a Farmer's Guide to permitted activities. Note these are generalised description of the rules (refer to Appendix 3 for a table summarising the rules and key conditions).

4 Possible Waikato and Waipa catchment wide rules

The following are practices (activities) and technologies the CSG discussed at the June and July workshops that could lend themselves to rules that apply generally for *E.coli*, sediment, Phosphorous and Nitrogen (refer to facilitation notes for CSG 12, 13). These are more detailed for Policy B (refer to table in Appendix 1). More options were discussed in the CSG workshop session on sediment so the options below are sediment focused.

Council staff have developed possible wording of a rule for managing stock - in and near water bodies. The other options at this stage are just listed as general descriptor.

Stock exclusion from waterways and minimising effects where stock cross a water body

General descriptor:

Rules that require a culvert⁴ or bridge for regular stock crossing

Rules to exclude deer and cattle (including dairy cows) from water

There were different views about how, where and how soon this might apply, about the stock, the land, or the water body e.g. based on stock type, stocking rate, land class, permanent water body (Facilitation notes CSG 12). In this session the rules in the proposed Auckland Unitary Plan and the Taranaki, Draft Freshwater and Land Management Plan were raised by the CSG and these have been included for information in Appendix 2.

Stock exclusion from waterways is one rule that WRC staff and the CSG agreed could do with improvement. Currently, it is written in an effects-based way that is very difficult for the farmer or the council monitoring staff to assess. Council staff have crafted a starting point rule for the group to discuss.

Note: The option in Text Box 1 is written as a prohibited activity rule rather than a permitted activity (as stock exclusion rule in existing WRP). It is counter intuitive to have a permitted activity when the general expectation is that stock in water ways should not be allowed. This approach sets the bottom line that activity is prohibited. Another way to look at this is that it would not be sensible to give a consent for stock in waterways.

Text Box 1 – example new rule stock exclusion from water bodies

Prohibited Activity Rule: Stock Exclusion from Waterways

On all land excluding [insert these types], it is a **prohibited activity** to allow dairy, beef meat cattle, domestic farmed deer, goats and horses unrestricted access to the bed of a water body.

[insert descriptor of cut-off/threshold] e.g. of Land Use Class e.g. class 6e or slope greater than 25 degrees

⁴ Culverts are only included here for the purpose of reducing direct stock discharges to water bodies at stock crossing points. The re- writing of conditions of culvert rules for increased fish passage or access to habitat is out of scope of Healthy Rivers (WRC 2014b, DM 3037840).

Definitions (defined by the RMA 1991)

Water body means freshwater or geothermal water in river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

Bed means,—

- (a) in relation to any river—
 - (i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:
 - (ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and
- (b) in relation to any lake, except a lake controlled by artificial means,—
 - (i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:
 - (ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and
- (c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and
- (d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

For ease and consistency across the plan consider the RMA definition of Water body. There could however be a stock access to water rules be a specific definition. Possibly add to the definition of water body in the RMA to include part of the definition in the Dairy Accord of Waterway. That is “this definition does not included ephemeral watercourses that flow during or immediately following extreme weather events”.

Definition (Dairy Accord)

Waterway

A lake, spring, river or stream (including streams that have been artificially straightened but excluding drains) that permanently contains water and any significant wetland. For the avoidance of doubt, this definition does not include ephemeral watercourses that flow during or immediately following extreme weather events.

Stabilising erosion risk areas⁵ - including soil slip erosion

General descriptor:

Rules to manage erosion risk areas

⁵ Clarify or define this to incorporate risk or activity that the CSG wants to manage – currently there is a high risk erosion definition and rules with focus on stream bank area or steep slope that exceed 25 degrees.

Trapping sediment – including overland flow, soil disturbance, earthworks

General descriptor:

Rules to manage actively eroding sediment sources

CSG discussed:

Critical sources areas, having stabilisation, traps for actively eroding sediment sources e.g. bunds/silt traps.

Elements raised by the CSG to consider in design (Facilitation notes CSG 12):

- defining active erosion – if going into river, and
- define critical source area.

Setbacks from water - managing activities⁶ – soil disturbance, earthworks close to water bodies

General descriptor:

Rule for all sectors (forestry, horticulture, dairy, sheep and beef) that setbacks [required setback distance between a waterway and any activity e.g. soil disturbance] from waterways

Setbacks from water for intensive grazing in winter

General descriptor:

Rule for setbacks from waterways for intensive grazing in winter

Winter cropping - restrictions on stock size/location/grazing

General descriptor:

Rule that restricts location of winter crops relative to water ways

Rules that stop in-situ fodder crop grazing in winter

Rule that restricts stock of certain size grazing winter crops

⁶ Including activities involved in earthworks, plantation forests, cropland and pasture management, grazing.

Limit stock on steep slopes/certain land use classes

General descriptor:

Rules to limit stock on steep/very steep land e.g. from carrying stock at a certain unit threshold/size/type

Options raised by the CSG to consider:

- Limit stock on certain LUC's/ retire very steep land (stock unit threshold (sensible scale) (Facilitation notes CSG 12).

5 Forestry

The presentation by the forestry representative at the June CSG outlined a proposal based on plans other councils are preparing, and can be summarised as follows:

- Forestry land disturbance operations are permitted activities subject to conditions
- Permits associated discharges of sediment to water and or land where it may enter water
- Permits associated diversion of water
- General conditions include prior notification of activities, industry good practice for erosion and sediment be in place, works not result in instability of land or structures beyond boundary and accidental protocols followed
- Specific conditions for earthworks, planting and harvesting

(Fordyce 2015)

This 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.

In addition to the presentation policy staff have had an initial meeting on the 17 July 2015 with forestry representative to explore the Forestry proposal in more detail. In this session it was highlighted that the forestry sector has had decades of experience developing conditions that can be applied to the various activities in the life cycle of plantation forestry (roading, tracking, planting and harvesting operations). The Regional Plan currently contains rules which apply across the Waikato region, with some additional restrictions for forestry harvest operations in the Coromandel. Therefore the starting point for addressing the effects of forestry operations is to look at existing provisions in the Regional Plan.

From both of the CSG June and July 2015 workshops staff have been given direction to investigate a number of policy options. One of these is Policy B – Generic Regional Plan Rules to control activities. Rules for forestry fit under this option, and as directed by CSG, staff are working with industry members to continue investigating the detail of what general rules for forestry might look like (Workshop notes CSG13).

5.1 Current regime for managing forestry

The Waikato Regional Plan contains rules which control soil disturbance, roading and tracking and vegetation clearance (see 5.1.4) and has associated conditions which need to

be met (see 5.1.5)⁷. There are exceptions in the rules for forestry for example plantation forestry is excluded from vegetation clearance rules (5.1.4.14) in high risk erosion areas⁸. The rule categories for these activities are permitted, controlled or discretionary. Which category an activity falls into depends on if the conditions can be met and where in the region the activity is being undertaken, for example there are higher levels of control in the Coromandel, in karst landscapes and in high risk erosion areas.

Other councils around the country are taking a similar approach to this with their second generation plans. For instance Horizons One Plan Rule 12-2 Forestry, which describes in a permitted activity rule what actions are covered and lists conditions which need to be complied with. If these conditions can't be met then the activity falls into a more stringent activity class which requires a consent (Horizons One Plan Environment Court Decisions Version). A similar approach is being taken in Auckland Proposed Unitary Plan and the subsequent hearings processes.

5.2 National Environmental Standard for Plantation Forestry

When the Government makes a National Environmental Standard (NES) operative, it essentially replaces existing rules for the same provisions in Resource Management Act 1991 (RMA) plans. CSG members may already be aware there is a consultation document out for provisions covering forestry operations. It is possible this will become an operative Forestry NES by the end of 2016. In the meantime CSG needs to keep progressing Plan Change 1 to manage the effects of forestry activities.

In June 2015 the Ministry for Primary Industries released a consultation document seeking views on the proposed subject matter for a National Environmental Standard for Plantation Forestry (NES-PF). This is a proposal to change how plantation forestry activities are managed under the RMA. It would provide a nationally consistent approach that is responsive to local environments.

Councils would retain local decision making for matters beyond the scope of the NES-PF or where greater stringency is allowed. The Vision and Strategy and the National Policy Statement for Freshwater management both give scope for Waikato Regional Council making some provisions more stringent than the NES-PF.

The proposed NES-PF covers the whole plantation forest cycle and includes draft activity-specific rules that provide certainty for local authorities, forest owners and communities nationally. The forestry activities covered are:

- afforestation

⁷ Waikato Regional Plan Operative Version. Module 5 Land and Soil. Section 5.1 Accelerated Erosion. 5.1.4 Implementation Methods – Accelerated Erosion and 5.1.5 Conditions for Permitted Activity Rule 5.1.4.11 and Standards and Terms for Controlled Activity Rules.

⁸ Definition of High risk erosion area: Means any part of any activity area (where the activity is not otherwise permitted):

- a) where the pre-existing slope of the land exceed 25 degrees; or
- b) on coastal frontal dunes on the East Coast; or
- c) on coastal sand country on the West Coast (Mokau to Karioitahi) where loose sands are at the ground surface or within 10 centimetres of the surface; or
- d) within 50 metres landward of the coastal marine area of an estuary, except in the landward margin of an authorised stopbank; or
- e) adjacent to water bodies (including ephemeral watercourse draining catchments greater than 100 hectares, but excluding any other ephemeral rivers or streams), where:
 - i) the land slope is between 0 degrees to 15 degrees – within 10 metres from any lake, wetland or the bed of a river or lake, or
 - ii) the land slope is greater than 15 degrees – within that distance from the wetland, the bed of a river or lake, or from mean high water springs to the first point at which the slope reduces to 15 degrees or less, or 100 metres (whichever is the lesser, outside the minimum distance described in i).

This definition is illustrated in Figure 5-1 in Chapter 5.1.4

- pruning and thinning-to-waste
- earthworks
- river crossings
- forestry quarrying
- harvesting
- mechanical land preparation
- replanting.

There are four principles underpinning the draft rules:

1. Where appropriate, activities should be “permitted” (that is, not need a consent), provided conditions are met.
2. The level of control associated with each activity should be directly associated with the level of risk of adverse effects on the environment at the location the activity takes place. As the level of risk of adverse effects increases, a requirement for consent is introduced.
3. Understanding the risk of adverse effects on the environment around the country should be informed by up-to-date science.
4. The NES-PF should provide a nationally consistent approach, but should also be responsive to local environments.

If the NES-PF proceeds to become regulation council will need to insert the provisions into the Waikato Regional Plan. Council is able to set more stringent standards in specific circumstances, as noted in the NES-PF. In addition, the Waikato and Waipa Rivers settlement legislation states that a rule included in a regional plan for the purpose of giving effect to the Vision and Strategy prevails over a national environmental standard if it is more stringent than the standard⁹. Anywhere a council sets a standard more stringent than an NES needs to be justified in a s32 analysis.

The consultation document can be found at <http://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-plantation-forestry/>

6 Summary

This report describes the practices that mitigate contaminants entering water that the CSG felt might work as generic region-wide rules that apply across all land in Plan Change 1. The ideas were generated at the workshop session in June and July.

Some of the suggestions made by CSG in the last two workshops, and listed in Table 1, are activities that are already covered by the regional plan. Region-wide rules already exist. Therefore the job ahead for the CSG is to assess:

1. What effects on water quality are already managed by rules or methods in the regional Plan
2. How implementation of rules is working
3. What tweaks to rule conditions, re-work of wording to make the rule clearer or addition of implementation support is needed
4. What gaps CSG have identified, where new region-wide rules or methods to achieve the water quality limits are appropriate

The Waikato and Waipa catchment wide rules under consideration are listed in general terms in this report. More consideration of the design of these rules will be developed with the CSG and are needed to inform rule crafting.

⁹ Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, section 12(4). Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, section 12(4).

Region-wide rules are being considered in addition to a tailored approach to mitigations

The CSG is also considering the concept of a tailored approach, where each property has a set of practices that mitigate contaminants entering water. A tailored approach allows the mitigations to be matched to the local environmental outcome desired and the soil, topography, rainfall, and existing infrastructure on that property. A report for the CSG August 10-11th workshop titled “Exploring industry farm plans as a policy option; including industry-supported farm plan with regulatory backstop” (WRC 2015b) DM#3454905 goes into this in more detail.

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List of Appendices:

Appendix 1 - Overview tables of policy options for the four contaminants

Appendix 2 - Examples of other councils stock exclusion rules

Appendix 3 - Current Waikato Regional Plan rules that relate to options proposed by CSG

7 References

Collaborative Stakeholder Group Workshop 12 Notes. 4 and 5th June 2015, DM 3419983.

Collaborative Stakeholder Group Workshop 13 Notes. 2 and 3rd July 2015, DM 3439320.

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Appendix 1 - Overview tables of policy options for the four contaminants

Table 2: Sediment Policy Options Overview table showing changes since June CSG workshop (source: WRC 2015c DM#3425911)

	Existing Regional Plan	Existing Regional Plan	Existing Waipa Catchment Plan	Possible	Possible	Possible	Possible
Instrument	Policy A Regional Plan general discharges rules Rules based on requiring landowner to not cause a breach of in stream limit (standard)	Policy B Regional Plan rules <u>Rules</u> that apply to everyone that spell out what has to be done and how (the technology or 'hardware' on a farm, and the process or management practices)	Policy C <u>Financial subsidies</u> for undertaking activities (farm practices and technologies) on the farm that address sources of sediment	Policy D <u>Rules</u> that requires landowners have a farm plan that spells out what the landowners do and how	Policy E <u>Tender</u> where landowners tender land management agreements	Policy F <u>Financial subsidies</u> to promote alternative land use based on zoning of land to indicate "best" use of the land	Policy G <u>Rules</u> that permanently retire high risk land from agriculture
Proposed changes	Deleted by CSG because fails most criteria - not practical June 4 th 2015				Lumped into Policy D because it is a more detailed version of D	Lumped into Policy D because it is a more detailed version of D	Lumped into Policy B because it is a more detailed version of B
Policy descriptor	Regulation	Regulation	Incentives	Regulation	Incentives/Tender	Incentives	Regulation
Applies to all, applies to specific areas, or tailored for each farm	Generic	Generic	Tailored	Tailored	Tailored	Tailored	Generic

Note: Some options are mutually exclusive of others. Others approaches can be done in combination. Note: Generic means same general approach for all dischargers or groups of dischargers.

Table 3: Nutrient and microbes Policy Options Overview table to discuss at July CSG workshop (source: WRC 2015c DM#3425911)

	Existing	Existing	Possible	CSG Policy B detail to investigate	Possible	Possible	Existing Regional Plan	Possible
Instrument	Policy B Regional Plan rules <u>Rules</u> that apply to everyone that spell out what has to be done and how (the technology or 'hardware' on a farm, and the process or management practices)	Policy C Financial <u>subsidies</u> for <u>undertaking activities</u> (farm practices and technologies) <u>on the farm that address sources of sediment, N, P and Microbes</u>	Policy D <u>Rules</u> that requires landowners have a farm plan that spells out what the landowners do and how and auditing of the farm plan actions	Policy H <u>Rules</u> for <u>Activities (practices or technologies) that apply to everyone</u> e.g. for sediment - stock exclusion deer and cattle e.g. for microbes – all stock excluded	Policy I <u>Require</u> all landowners to have a farm plan that is developed and audited by industry. Farmers need consent from WRC if not part of this scheme	Policy J <u>Rules</u> that a landowner must not breach property soil limit on phosphorus (Olsen P)	Policy K <u>Cap and Trade/offset Rules</u> that apply to everyone in the catchment operating under a cap on N leached from each property. Once initial rights to N allocation is decided, OVERSEER model is used to determine N leached	Policy L <u>Rules that set a property level limit for discharges</u> OVERSEER is NOT used to set or monitor property-level cap. Instead, use simple look up table of N-critical factors e.g. winter stock units
Variations could include	<u>Rules</u> that permanently retire high risk land from agriculture	<u>subsidies</u> to promote alternative land use OR <u>Tender</u>					could have <u>cap and trade</u> if a suitable proxy for property level Phosphorus	This limit could be part of a <u>trade/offset</u>
Policy descriptor	Regulation	Incentives/ Tender	Regulation	Regulation	Regulation	Regulation	Market	Regulation
Applies to all, or tailored	Generic	Tailored	Tailored	Generic	Tailored	Generic	Generic	Generic

Appendix 2

Examples of other councils stock exclusion rules

Auckland stock exclusion rule

The proposed Auckland Unitary Plan, Regional and District Rules, Chapter H: Auckland-wide rules, 4: Natural Resources, 4.13 Lakes, rivers, streams and wetland management, Permitted Activity Controls

2.7 Livestock access

- 1) On intensively grazed production land, livestock must be excluded from:
 - a) the full extent of any lakes, rivers, streams and wetlands, excluding any intermittent stream reaches, by [date 5 years post-notification of the Unitary Plan]
 - b) the full extent of any river or stream by [date 10 years post-notification of the Unitary Plan].
- 2) Livestock exclusion must be effective and exclusion methods may include a permanent fence or temporary hot-wire, dense vegetation and natural barriers that prevent livestock from gaining access to the waterway.

Livestock access not meeting the permitted activity controls is a discretionary activity.

Definitions

Intensively grazed production land: Stocking rate equal to or exceeding 18 stock units per hectare.

Livestock: Animals raised for food or other products, or kept for use, especially farm animals.

Includes:

- meat and dairy cattle
- pigs
- poultry
- deer
- horses
- goats
- sheep

Intermittent stream: Stream reaches that cease to flow for some periods of the year.

Includes:

- reaches with stable natural pools having a depth at their deepest point of not less than 150mm and a total pool surface area that is 10m² or more per 100m of river or stream bed length and
- reaches without stable natural pools.

Excludes:

- ephemeral reaches.

Ephemeral reaches: Stream reaches with a bed above the water table at all times, with water only flowing during and shortly after rain events.

A river reach is ephemeral where it meets at least three of the following criteria:

- it lacks a well-defined channel, so that there is little or no ability to distinguish between the bed and banks
- it contains no surface water, if no rain has occurred in the previous 48 hours
- it contains terrestrial vegetation
- there is no clearly visible organic debris on its floodplain from flood flows

- there is no evidence of substrate sorting through flow processes

River or stream: A continually or intermittently flowing body of fresh water, excluding ephemeral reaches, and includes a stream or modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal except where it is a modified element of a natural drainage system).

Taranaki stock exclusion rule

Taranaki Regional Council, Draft Freshwater and Land Management Plan for Taranaki, Rule 35

Intensive Pastoral Farming

After 1 July 2020, use of land for intensive pastoral farming is permitted.

Conditions/standards/terms

- Cattle are excluded from the beds of rivers, lakes and regionally significant wetlands, other than at regular stock crossing points.
- Regular stock crossing points are bridged or culverted and run-off originating from the carriageway of the bridge or culvert and approaches does not discharge to any river, lake or regionally significant wetland.
- Riparian margins of rivers, lakes and regionally significant wetlands are vegetated or planted in accordance with a riparian management plan.

Cattle access and riparian management not meeting the permitted activity controls is a controlled activity, with control reserved over:

- Provision of an approved riparian management plan and other information, and its content.
- Timing and setting of conditions relating to the implementation of an approved riparian management plan.
- Duration of consent.
- Review of conditions of consent and the timing and purpose of the review.
- Payment of administrative charges and financial contributions.
- Monitoring and information requirements relating to matters that the Taranaki Regional Council has reserved control over.

Resource consent applications under this rule will not be publicly notified.

Definitions

Intensive pastoral farming: means an area of land greater than 20 hectares used for the pastoral grazing, keeping, rearing and breeding of dairy or beef cattle, with a stocking rate of 14 stock units per hectare or more. Intensive pastoral farming excludes:

- intensive pig farming
- intensive poultry farming
- horticulture and cropping
- sheep farming
- deer farming.

Regionally significant wetlands: refers to a wetland that:

- is a habitat type identified and described in Table 1 of Schedule 4B of the Plan as having significant indigenous biodiversity values in accordance with Policy 3.2; AND
- is not a habitat type excluded by any of the criteria in Table 2 in Schedule 4B of the Plan.

Regular stock crossing points: means a point where cattle, farmed deer and farmed pigs cross a water body, over and back, more than once per month.

Riparian management plan: refers to a plan that records, in narrative and/or map form, what riparian margin is to be fenced and planted and with what species in order to promote the water quality objectives sought by the Plan. Riparian management plans are to be developed consistent with the riparian management guidelines developed by Taranaki Regional Council. For the avoidance of doubt, the Taranaki Regional Council will assess compliance with the riparian management plan requirements of Rule 35 (c) and when completed will issue a completion certificate outside the provisions of the Freshwater Plan

Appendix 3 Current Waikato Regional Plan rules that relate to options proposed by CSG

Practice or technology	General description	Current rules – Key conditions
Stock exclusion from waterways and effects of stock crossing water bodies	<p>Rules to exclude deer and cattle (including dairy cows) from water</p> <p>Rules that require a culvert or bridge for regular stock crossing</p>	<p>4.3.5.4 Permitted Activity Rule – Livestock on the Beds and Banks of Rivers and Lakes</p> <p>4.3.5.5 Discretionary Activity – Livestock on the Beds and Banks of Priority One Water Bodies</p> <p>4.3.5.6 Non-Complying Activity – Livestock on the Beds and Banks of Rivers and Lakes</p> <p><i>Current controls on about the erection, reconstruction, placement, alternation or extension of culverts and bridges and fords.</i></p> <p>4.2.8 Bridges</p> <p>4.2.8.1 Permitted Activity Rule – Bridges</p> <p>4.2.8.2 Controlled Activity Rule - Bridges</p> <p>4.2.8.3 Restricted Discretionary Activity Rule - Bridges</p> <p>4.2.9 Culverts</p> <p>4.2.9.1 Permitted Activity Rule – Catchments Not Exceeding Five Hectares</p> <p>4.2.9.2 Permitted Activity Rule – Culverts for Catchments Not Exceeding 100 Hectares</p> <p>4.2.9.3 Controlled Activity Rule - Culverts for Catchment Areas Not Exceeding 500 Hectares.</p>
Stabilising erosion risk areas	Rules to manage erosion risk areas	<p><i>Existing rules are about soils stability to reduce accelerated erosion.</i></p> <p>5.1.5 Conditions for Permitted Activity Rule 5.1.4.11 and Standards and Terms for Controlled Activity Rules</p> <p>4.2.15 Erosion Control Structures</p> <p>4.2.15.1 Permitted Activity Rule – Erosion Control Structures</p> <p>4.2.15.2 Controlled Activity Rule – Erosion Control Structures</p>
Trapping sediment	Rules to manage actively eroding sediment sources	<p>5.1 Accelerated Erosion*</p> <p>5.1.5 Conditions for Permitted Activity Rule 5.1.4.11 and Standards and Terms for Controlled Activity Rules</p>
Setbacks e.g. intensive grazing in winter / setback for other land uses	<p>Rules for all sectors that setback [activity] from water way</p> <p>Rule for setbacks from waterways for intensive grazing in winter</p>	<p><i>Setbacks are not used in the WRP, but the similar concept is used in some rules. There is reference for example in the definition of high risk erosion and the 2m rule on cultivation.</i></p> <p>For example:</p> <p>5.1.4.12 Permitted Activity Rule – Soil Cultivation Adjacent to Water Bodies</p> <p>5.1.4.17 Discretionary Activity Rule – Soil Disturbance/Vegetation Clearance in Karst Landscapes</p>
Winter cropping	<p>Rule that restricts location of winter crops relative to water ways</p> <p>Rules that stop in-situ fodder crop grazing in winter</p> <p>Rule that restricts stock of certain size grazing winter crops</p>	None.
Limit stock on	Rules to limit stock on	5.1.4.14 Controlled Activity Rule – Soil Disturbance, Roading and

steep slopes/certain land use classes	steep/very steep land e.g. from carrying stock at a certain unit threshold/size/type	Tracking and Vegetation Clearance, Riparian Vegetation Clearance in High Risk Erosion Areas 5.1.4.15 Discretionary Activity Rule – Soil Disturbance, Roding, Tracking, Vegetation Clearance, Riparian Vegetation Clearance in High Risk Erosion Areas
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