

Report to the Collaborative Stakeholder Group – for Agreement and Approval

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Date: 9 October 2015
To: Collaborative Stakeholder Group
From: Chairperson – Bill Wasley
Subject: Options for Tailored Property Plans
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 provide the Collaborative Stakeholder Group (CSG) with more detail on the various options for the use of Tailored Property Plans in the Plan Change 1 and inform discussion on what to consult on at the next engagement round.

This includes:

- An update on the various conversations outside CSG workshops with industry.
- Exploring some of the process, support and minimum requirements of this type of approach.

The industry bodies/industry scheme set in this report reflects ideas of CSG members that volunteered at the June 2-3 2015 CSG meeting to work with staff on how their industry initiative could be used as part of achieving limits and targets for diffuse discharges in the Plan Change.

Recommendations:

1. That the report [Options for Tailored Property Plans] (Doc #3563987 dated 9th October 2015) be received, and that:
2. The CSG agree they take the policy option of Tailored Property Plans to the community for feedback in the intensive engagement period from 27 October to mid November 2015, by:
 - a. Outlining options one and two in this report that have differing roles and responsibilities for council and primary production industry bodies.
 - b. Being clear in the consultation with potentially affected people and the community that it is early days in the development of this option, and the CSG is still working on implementation process and other important aspects (such as where in the catchment the Tailored Property Plans may be required, and how much diffuse

- contaminant reduction may be required as part of landowner actions in a Tailored Property Plan, if each sectors will be able to offer a scheme).
3. The CSG agree that staff continue to work on aspects in 2) above, with a view to bringing this together with the results of the community engagement, for CSG to finalise in early 2016.

2 Developing the Property Plan policy

The policy staff have been following the CSG recommendation to meet with sectors to develop the Tailored Property Plan approach. There is variability in what level of involvement the various sectors are proposing and what existing schemes, or parts of current programmes, might be used in the Tailored Property Plans approach.

Council policy staff and implementation staff (e.g. consents, enforcement, etc) have also been meeting to discuss some of the design considerations of Tailored Property Plans. The Council input outlined here has focused on what would make up the Property Plan approach in a regulatory process. Refer to Appendix 2 for more detail about when and who have been involved in these conversations.

In the sections below we describe possible Tailored Property Plan options, provide some information on the requirement of an industry scheme/consent process and some of what might be required of landholders. Note the detail in this report has not yet been fully scoped with sectors or within Council so the detail about roles, auditing and data management, and certification have not been discussed in full or agreed by the CSG or the various industries/agencies identified in these options.

The CSG is yet to decide on how it will achieve reductions in discharges and monitor aggregate outcomes using the Property Plan approach. Some of the discussion at the CSG Overseer subgroup workshop on the 6th October 2015 on the use of Property Plans to achieve reductions in nutrients at a property level (refer to report back to CSG 13-14 October 2015 on sub-group outcomes DM#3574906). This aspect of Property Plan (i.e. details of particular reduction targets in discharges at a property level) has not been outlined in this report.

3 Tailored Property-Plans – two options being considered by the CSG

For each option:

1. It is compulsory for landholders to have a Tailored Property Plan
2. Property Plans must be certified by an accredited provider. Certification confirms that the information is correct and actions in the plan are appropriate
3. Training and competencies are critical – through an accreditation process of auditors and plan providers.
4. It is used in conjunction with catchment-wide rules
5. Landholders are either in an industry scheme of appropriate rigour that includes industry auditing to be a permitted activity, or they need a resource consent.

Certification: refers to the confirmation by some form of external review that the Property Plan information and actions are suitable.

Accreditation: is a specific process of certification to confirm that a person/company is competent, with adequate training to do the task.

Route landholder follows to meet WRP Plan requirement for Tailored Property Plan:

Option 1: Industry¹ bodies scheme with Tailored Property Plan
(e.g HortNZ, Beef and LambNZ etc) (Refer to Figure 1 below).

Landowners develop a certified Property Plan with actions, via:

1. Industry route to compliance with Permitted Activity via plan provider in scheme run by industry bodies (e.g. Dairy NZ, Beef and Lamb, Horticulture New Zealand etc) and supported by industry, or
2. Landholder develops Property Plan with a private property plan provider to submit a Property Plan with an application for a resource consent.

Option 2: Industry scheme with Tailored Property Plan
(e.g. processors) (Refer to Figure 2 below – Example in diagram is dairy industry).

Landowners develop a Property Plan with actions, via:

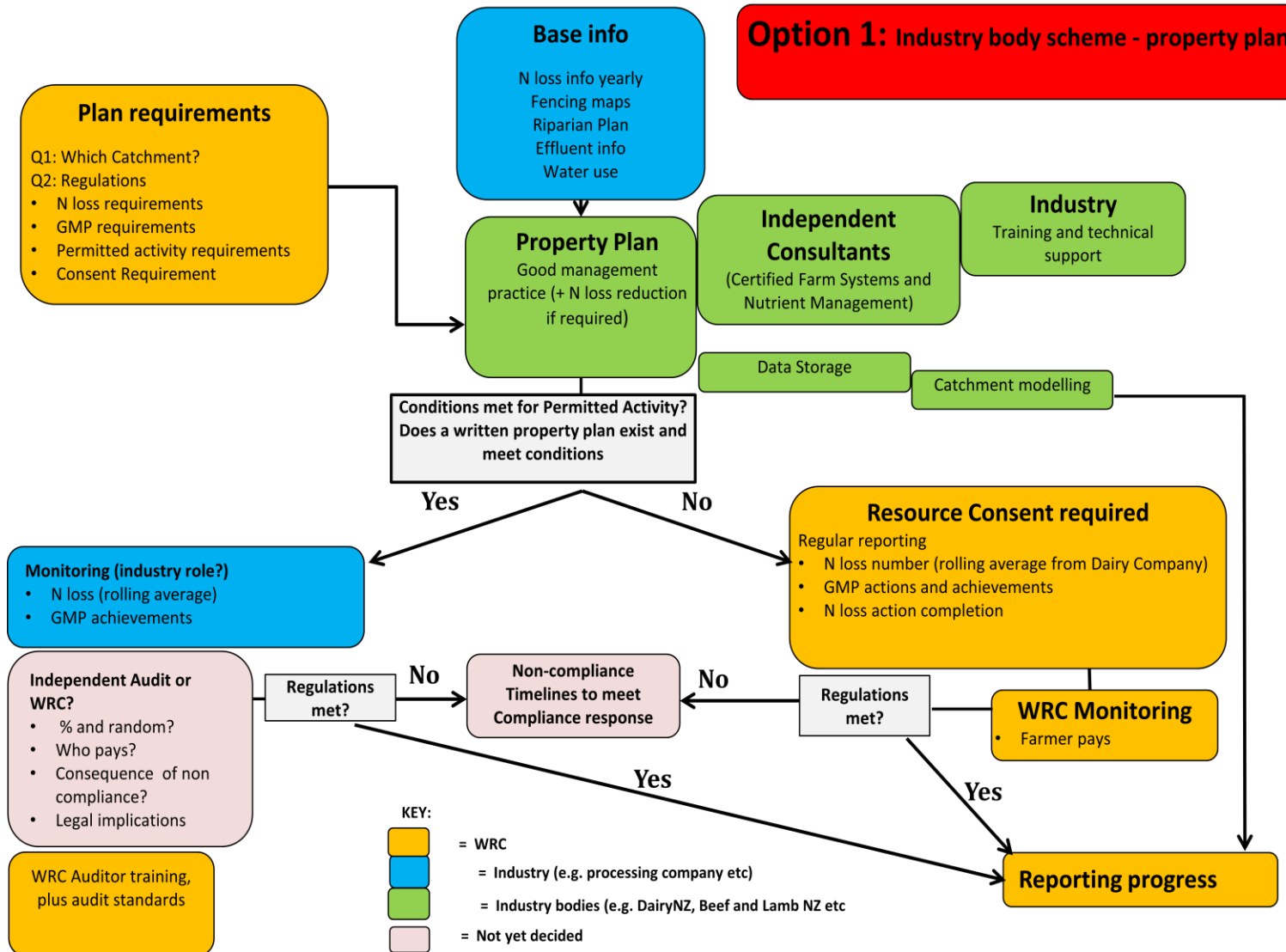
1. Industry route to compliance with Permitted Activity via industry assurance scheme (e.g. Milk Company) and support from industry bodies, or
2. Landholder develops Property Plan with a private plan property plan provider to submit a Property Plan with an application for a resource consent.

In the sections below industry scheme is used to describe either option.

Choice of Activity status – the proposal by industry and the CSG is to make the Property Plan a Permitted Activity as long as it is in an industry scheme. More conversation is required on this as what is being proposed here is quite a different approach to the use of a Permitted Activity traditionally.

¹ Industry bodies is used to describe primary producer representative organisations such as Beef and Lamb, HortNZ, Dairy NZ etc. Industry is used to cover all other agencies that need/would to be involved – this has been generalised here. Some options proposed by sectors may be a mix of industry bodies and industry.

Figure 1: Industry body scheme - Tailored Property Plan



4 Possible components

Plan requirements

Very clear Waikato Regional Plan requirements for the Property Plan and thresholds in the rules/conditions to assess plans against. Whilst this approach aims to provide flexibility for landholders in their choice of actions, there must be clear guidance for those implementing the rule. There will also be catchment-wide rules that must be met by landholders.

Access to information: The Property Plan will be provided to the industry running the scheme. The Property Plans and the supporting information must be registered with Council. The landholder will provide the results of the auditing to the industry body running the scheme and Council. Otherwise there is the risk that Council is unaware if people are in industry schemes, and to what standard the programme is completing plans.

Plan development

Training and competency of the independent plan providers and industry scheme auditors: Adequate accreditation is required to back up private plan providers and scheme auditors. The certification scheme must cover multiple areas of expertise e.g. farm dairy effluent, nutrient management, farm systems etc.

Comprehensive Property Plans developed by independent providers: Consultants working with landholders must be accredited to WRP rule standards and work one on one with landholders on their farm. By signing off the plan they are asserting to the fact that what is in the plan reflect what is currently occurring and what is proposed in reasonable. The risk is of inadequate plans as a result of plan providers not developing, or property owners not signing up for, the appropriate level of action. There is a risk that the most appropriate actions, i.e. those based on the risk and contribution to reducing discharges and best investment opportunity are not chosen or missed.

The plan is a suitable point of reference: It should record the landholder's existing management practices and technologies so that progress can be determined in relation to reducing discharges, especially if landholders are found to be non-compliant.

Monitoring and auditing

Compliance action from industry: Industry schemes must be supported by an appropriate level of compliance action from industry, and at some point non-compliance should be referred to Council. The risk must be managed that landholders could spend a long time in the industry scheme being non-compliant, while the industry tries to address problems with the landholder.

Security and accountability that plan actions are implemented: In an industry scheme there is a need to provide security and accountability, including identification of who is responsible for running the industry scheme and cohesion between all the people involved (e.g. providers, 3rd parties schemes), with clear accountability if the scheme is not performing.

Compliance process: The industry scheme must have a process for dealing with landholders not meeting Waikato Regional Plan requirements for a Property Plan, or not undertaking actions in the Property Plan.

A process that holds landholders accountable for actions and associated reductions in discharges: This must be enduring if land changes ownership, or if and when the Property Plan is reviewed. If there is too much flexibility in the policy, if complex and expensive actions are not occurring (e.g. they consistently fall out in Property Plan renewal processes), if actions are not implemented when changes in ownership or changes in enterprise occur then catchment water quality outcomes are at risk.

Agreement to run the industry scheme

Council and Industry agreements on oversight of the industry scheme may be based around agreements set up outside any legislative framework. There could be significant reliance on this agreement if the industry scheme is not working. Council and industry have some experience in this space e.g. Dairy Accord, but overall a new type of relationship with industry will be required in the significant role they are taking on.

There is a need for one policy frameworks for each sector, regardless of current industry programmes (e.g. all dairy company, all horticulture, all sheep and beef and all arable landholders, other drystock sectors). For the systems to work it must be one framework with the same standards at key stages or steps. This is important so everyone is held to same requirement, and may reduce the implementation complexity.

Implementation: Industry role, council role and capacity

There are elements of similarity in the steps (appendix 2) in each pathway options; however a key consideration is how many landholders will fall in either the consents options or industry schemes. This then flows on to implementation resources and capacity including independent consultants with skills and accreditation.

There is a risk of not enough support people (industry or consultants) to implement, or independent consultants not becoming involved because they don't want the perceived or actual risk to their business, or due to competing demand for resources/skilled people in other catchments.

One would assume that either of the industry options would appeal to landholders; however industry capacity to provide a scheme that aligns with Council and Community expectations may mean some sectors or suppliers to some companies are not able to choose this pathway.

Variation in how much falls to which implementer (industry body/businesses/Council), and when landholders will need support should be considered in either phasing in of the requirement or how much of the catchment that would require Property Plans. For example experience from implementation of Variation 6 was that if given time (i.e. time to apply for consent for dairy shed takes) landholders will take that time, so may need to start some landholder/areas of the catchment at different phases rather than having all landholders with the same end date to have completed plan development.

The Property Plan policy options could also vary in how many agencies would be directly interacting with Council. There is the risk that the approach becomes enormous even though Council is not working directly with landholders due to the range of agencies just to administer the assurance schemes and ensure accountability to Council rule requirements. One overarching industry body running the scheme may help.

Changes over time in industry resources to support programmes, could mean that aspects of the programme (e.g. periodic monitoring timeframes) are stretched and become less regular

(e.g. fewer landholders, less often). Ultimately any of the industries could drop out of the scheme.

5 Community and Council confidence in the approach

Points to consider in designing a program that provide community and Council confidence in Property Plan policy option (refer to Table 2 in Appendix 3 for more detail):

- Plan provider with appropriate independence and expertise to develop and certify the Property Plan.
- Process to accredit person developing the Property Plan, process to ensure Property Plan is suitable.
- Property Plan has bottom lines – timeframes, clearly articulated actions etc.
- Property Plan must be registered with Council
- Plan identifies all legal requirements of landholder in relation to activities in the plan.
- Process if Property Plans are not adequate, or providers are not adequate.
- Results provided to Council of Third Party auditing/scheme auditing of Property Plan.
- Monitoring of the Property Plan and against catchment-wide rules (Council monitor the rules).
- Process to review and hold landholders accountable for actions if ownership changes or when Property Plan is reviewed.
- Mechanism for linking the content and strictness of the assurance scheme if water quality is not improving
- Industry body/industry has a formal agreement with Council to manage the scheme.

6 Summary

In this report we outlined the logic behind the CSGs consideration of Tailored Property Plans, key components of a Property Plan approach and some of the risks in design. We also outlined some of the considerations for design for Council and community to have confidence in the Property Plan process. These are just some of the many questions the CSG will need to answer if they propose this as a policy method using either of the options presented here.

Tailored Property Plan approaches have an inherent tension between providing choice to landholder in the actions they take to reduce discharges, and the risk of providing too much flexibility at the expense of action occurring fast enough by enough people to achieve water quality targets.

There is a need to ensure that those in a Permitted Activity industry scheme have continuity across options, regardless of sector or scheme, and are held to the same standard and level of action across industries to those who choose the resource consent option.

Without clear linkages through catchment scale reductions ultimately this tool does not put constraints on the total amount of discharge. If there is no cap people can change enterprises (new entrants can enter the market) and intensify while others are taking action to de-intensify and undertake mitigation actions.

Key points:

1. Needs to be designed to provide the community with confidence,

2. Consider staggered approach, and/ or not all landholders (a resources intensive policy approach and need for people with capability and capacity to work with landholders),
3. Use this approach along with other mechanisms to reduce the risk of this approach e.g. intensification of those not in a scheme or with a Property Plan consent.
4. Approach must be consistent regardless of current industry programmes (e.g. need to have same standards at key stages/steps, systems must be one framework with standard components (i.e. policy design) for all sectors.
5. There are significant differences in what each sector is proposing in their industry schemes (In some cases it unclear because industry representatives have not had the opportunity to sit down with staff and work through what they are proposing).
6. There is some indication already that what Council and community might need for confidence in the program and what some industries are able to offer are different. That means not all landholders may be able to use an industry scheme Permitted Activity route to compliance.

For the CSG to make decisions about the feasibility of this policy approach sector representatives, on behalf of and with their industries need to indentify for the CSG the bounds of what they would do/can do in such a scheme and if this matches the policy approach design requirements e.g. access to information, auditing etc.

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Appendix 1: Sample of the steps

Appendix 2: Council conversations with sectors

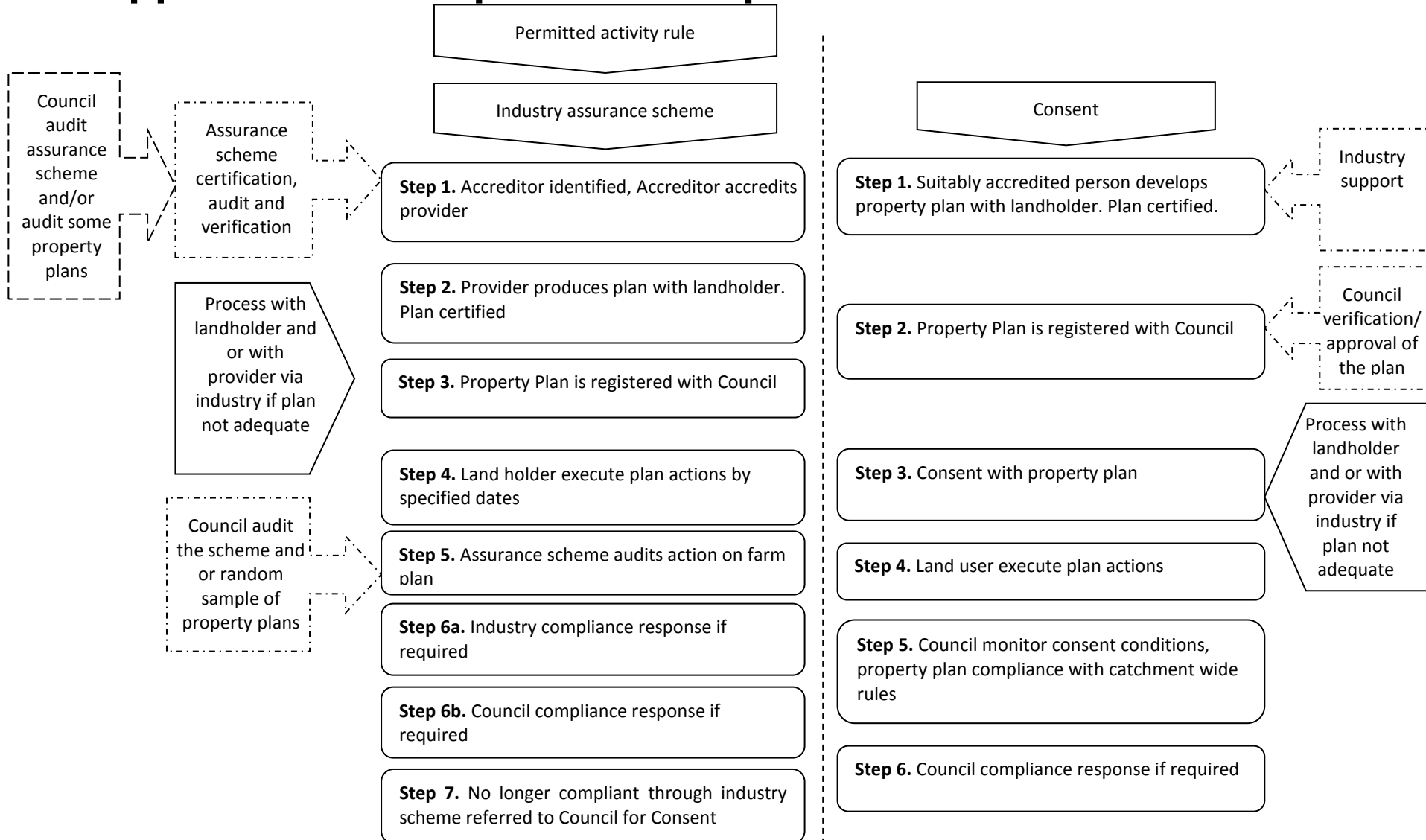
Appendix 3: Some of the consideration in designing the Property Plan approach and questions these pose

7 References

Waikato Regional Council 2015. CSG subgroup second meeting on nutrient limits and using Overseer to manage nitrogen and phosphorus at a property-level (9 October 2015). DM#3574906.

Waikato Regional Council 2015. Exploring industry farm plans as a policy option; including industry-supported farm plan with regulatory backstop (27 July 2015). DM# 3454905.

Appendix 2 – Sample of the steps



Appendix 2: Conversations with sectors

Development of the Property Plan policy concept

The policy staff have been following the CSG recommendation to meet with sectors to develop policy options, including the Property Plan concept. Understandably this is a big idea to explore and develop. For some of these sector and policy staff meetings, CSG representatives have brought in other people with relevant experience.

CSG members involved in developing the concept of Tailored Property Plan in industry framework (volunteers set up at CSG 12 June in Taupo, written report back to CSG 14) are, Chris Keenan, Charlotte Rutherford, James Bailey and Trish Fordyce.

Input has been through meetings with individual sectors. Discussions have been productive, both at sessions in workshops and at individual CSG representatives/industry staff and council staff meetings. Meetings include:

- Drystock representatives/Beef and LambNZ staff
- Dairy: Charlotte Rutherford (phonecall), and staff meeting with policy DairyNZ staff running sustainable milk plans nationally.
- Forestry (2 meetings between consents/policy staff with Trish),
- Arable/Horticulture via WRC organised business as usual sector meeting

From these conversation and industry presentations to the CSG there is variability in what level on involvement the various sectors are proposing and what existing schemes, parts of current programmes might be used in the Tailored Property Plans approach. This is therefore an important starting point for the conversation and decision making around the feasibility and effectiveness of this policy option. If the industry pathway is not adequate for some sectors then unaccounted for requirements on Council resources could require changes to the timeframes, feasibility etc.

Council policy staff and implementation staff (e.g. consents, enforcement, etc) have also been meeting to discuss some of the design considerations of Tailored Property Plans. The Council input outlined here has focused on what would make up the Property Plan approach in a regulatory process. The CSG need to consider, given the nature of the problem and land use change and mitigations required to improve water quality if Property Plans are the most efficient or effective approach to achieve change and implementation resources consideration.

Table 1: Staff conversations with sectors between workshops on detail on policy options meetings – mix of catchment wide rules and tailored property plan discussions

Date	Sector	Discussion with council staff
17 July 2015	Forestry	With the CSG forestry representative to explore the forestry sector proposal in more detail*. Helped inform report to CSG – DM# 3454905.
22 July 2015	Sheep and beef	With sheep and beef CSG representative and delegate and Beef and LambNZ staff on the detail of industry ideas on incorporating their approaches into the Plan Change*. - Helped inform report to CSG – DM#3454905.
22 July 2015	Dairy	Brief phone conversation with the CSG dairy delegate on incorporating their ideas on industry assurance scheme into the Plan Change.
6 August 2015	Dairy	Staff attended the dairy sector meeting – BAU Council meeting. This included an update on the project timeline

		and an offer from industry to share Sustainable Milk Plan information as part of the development of the policy approach on tailored property plans.
14 August 2015	Horticulture/ arable	Staff have had a session with the Horticulture Arable sector meeting – BAU Council meeting. These initial conversations have not occurred with the horticulture representative.
21 August 2015	Dairy	Conversation with DairyNZ staff involved in the Sustainable Milk Program to explore some of the learning's from the roll out of the SMP program that might help the CSG and council staff identify implementation considerations.
1 September 2015	Forestry	Discussion with sector representative on catchment wide rules including stock exclusion, setbacks and sediment control devices thinking about rule consistency across sectors.
25 September 2015	Dairy	Conversation with DairyNZ staff and WRC implementation staff on property plans, specifically the processes and support needed to implement and monitor Sustainable Milk Plan's as part of a plan change.

*As noted in the report on property plans (WRC 2015

Appendix 3: Some consideration in designing the Property Plan approach and questions these pose

Table 2: Policy components, consideration for community and council confidence in the scheme and policy design questions

	Policy components	For Council and Community confidence in the scheme	Questions
Rule - Plan Requirements	<p>Rule/s would have a framework for Property Plans i.e. template and certifying bodies accreditation.</p> <p>Note: Some consideration in rule activity status and extent to council approval of plan under activity status (e.g. PA), how risky activities in Property Plan are etc</p> <p>Develop accreditation requirements for Property Plan providers. Industry bodies or processing companies may be accredited in the same way as an independent consultant would.</p> <p>Clear criteria (for those requiring a plan) and expectations in the Regional Plan “Property Plan rule”.</p> <p>Define which properties are covered by this requirement. Have a cut off based on risk – define cut off e.g. property size/slope/stocking rate/ location. <i>Advice from the TLG on risk.</i></p> <p>Note: Strongly suggest that not all properties in the Waikato and Waipa catchment required to have a Tailored Property Plan (i.e. target high risk areas for contaminants that threaten</p>	<p>Methods specify minimum requirement of Property Plan.</p> <p>Definition of what <u>elements the properly plan</u> must contain. Elements must be identified and defined very clearly and with as much detail as practically and reasonably be achieved.</p> <p>Property Plans must be registered with Council.</p> <ul style="list-style-type: none"> - Property Plans and the supporting information are provided to Council. <p>Council retain the ability to take enforcement action where the Property Plan was deficient with regard to the <u>elements in the Property Plan.</u></p>	<p>Rule Question: What will be the cut off for property covered by Property Plan requirements – will it be e.g. mapped areas and tiered (e.g. more detailed plans required with more actions) bases on risk/location?</p> <p>Question: How significant will the actions in the plan be – what expected in terms of “Good Management Practice” and broader actions – e.g. larger investment in more expensive complex mitigations e.g. constructed wetland, sediment traps, standoff infrastructure, significant upgrades to effluent systems, significant fencing?</p> <p>Question: What about land use and increasing intensity? In N sensitive areas these are key considerations.</p>

	Policy components	For Council and Community confidence in the scheme	Questions
	particular values).		
Elements of the Property Plan	<p>Little room for ambiguity in <u>elements that Property Plan</u> must contain – acknowledging that over prescription reduces flexibility.</p> <p><i>Note: what's in the property plan doesn't exempt landholder from the catchment wide rules and requirement to get consent for activities in the property plan where rules thresholds are breached. But maybe in consented property plan option could identify an agreed timeframe for completing some requirements? (e.g. Stream protection on harder sites)</i></p>	<p>Property Plan will be required to include any requirement for actions in the plan that based catchment wide rules in the WRP would need a consent.</p> <p>Property plan needs to have bottom lines (timeframe, clearly articulated actions etc).</p>	Design Question: How do you get consistency between Property Plans or know how much is enough?
Developing the Property Plan	<p>Plan development - In term of quality may be less risky if Property Plan signed off by Council.</p> <p>Property Plan development by those with appropriate independence and expertise to ensure public confidence, that plans as a policy tool work towards achieving water quality outcomes, that addressing risk, etc.</p> <p>Council with some sort of involvement/oversight in the assurance scheme to reduce risk of inadequate property plans.</p>	<p>Getting the Property Plan right cannot be left to landowners themselves – there needs to be appropriate independence and expertise brought to bear.</p> <p>Process for accrediting the person (provider) developing the Property Plans with landowners.</p> <p>Process to ensure that Property Plan content is suitable:</p> <ol style="list-style-type: none"> 1. Whether elements of Property Plan as described in the rule are addressed. 2. Whether specific actions that are identified are appropriate and are consistent with achieving wider objectives, limit targets etc. 	<p>Design Question If suitable accredited person does the council need to have an approval of the Property Plan step – as long as meeting objectives, and clear advice in the WRP on what's in a Property Plan?</p> <p>Questions: What will be the process to ensure that the property plan content is correct, has <u>elements the Property Plan</u> described in the rules?</p>
Industry body /	Landholders have agreement with industry as	Require in scheme that provide Council	Question: Industry sectors are

	Policy components	For Council and Community confidence in the scheme	Questions
industry	<p>part of the assurances scheme.</p> <p>Industry assurance scheme require all approved plan lodged with Council.</p> <p>Industry assurance scheme timeframe – requirements for auditing of actions.</p> <p>Oversight and support the training for accreditation to standard or certification of providers/auditors.</p>	<p>with a certified Property Plan.</p> <p>Requirement to do actions in certain time</p> <p>Information must be provided to Council.</p> <p>Property Plan unable to be accepted/ registered with council if plan does not identify all legal requirements of landholders in relation to activities in the plan, plan not acceptable.</p> <p>Link between industry assurance scheme and third party auditing – awareness and transparency between those undertaking auditing and monitoring and compliance action etc and those with contract with landholders.</p>	<p>proposing different designed programs how will the CSG set a minimum standard – given the council must have for this type of scheme to work in regulatory setting and how will accommodate the different designed program – e.g. industry support through workshops versus working one on one with property owner to develop plan of suitable standard?</p> <p>Question What will be the nature of the contract between industry and landowner part of the scheme?</p>
Certifier / Accreditor/ provider	<p>Process to take if Property Plans are not adequate, e.g. providers worked with to come up to speed or providers no longer accredited.</p> <p>Design process with regular review for provider to be in or out of the accreditation process for public confidence around Property Plan development – possibly MOU between Council and industry to allow for mediation process and accountability standard of providers.</p>	<p>Accredited/certified plan that identifies legal requirements (e.g. consent required for earthworks to carry out action in the Property Plan).</p> <p>The provider is:</p> <ol style="list-style-type: none"> 1. Independent and professional, 2. Suitably qualified person for all <u>elements of the Property Plan</u> (e.g. understanding of farm systems and effluent design and management etc), 3. Can provide certification of the Property Plan is good to go. 	<p>Question: If a provider loses accreditation what happens to the plans they have provided? What happens to the land users who ‘own’ those plans? What are the liability issues for the provider?</p>
Auditing and verification plan	<p>Council satisfied that Property Plan suitable standard, not approval process but checking</p>	<p>Certification process for the accreditation of suitable farm/property planners so that the</p>	

	Policy components	For Council and Community confidence in the scheme	Questions
development	/audit.	assurance scheme systems have the right people to oversee the development of the Property Plan. Process if Property Plan not adequate; Process with landholder, process with provider via industry.	
3rd party /assurance scheme auditing plan action implementation	Council receives all auditing reports Third parties by auditors and addresses non compliance that way.	Built into the rule that results of 3 rd party auditing provided to Council.	Question: What information (plans themselves or auditing /non-compliance information would be available to Waikato Regional Council? Question: What will be the process to get information from Property Plans if confidentially clauses in arrangement with industry and landholder?
Monitoring Property Plan and against catchment wide rules	Need assurance that there is a robust system for ensuring compliance. Council awareness of non-compliance, through own auditing.	Accountability for undertaking actions that can or cannot be observed easily and extent to which activities in the plan are customised and observable, generic and observable, unobservable	
Measurement	Mechanism for linking the strictness and content of the industry contract to be in assurance scheme if the water quality is not improving.	Review and hold accountable for actions in the plan if landholders change, or if when Property Plan reviewed.	Question: What is the mechanism for linking the strictness and content of the industry contract to be in assurance scheme if the water quality is not improving?
Industry scheme agreement with council	Industry body/industry have a formal agreement with Council to manage its scheme		