

## 12 Land Use Activities and Indigenous Biological Diversity

### 12.1 Land Use Activities

#### 12.1.1 Objectives

**Objective 12-1: Accelerated erosion\* - regulation of vegetation clearance\*, land disturbance\*, forestry\* and cultivation\***

The regulation of *vegetation clearance\**, *land disturbance\**, *forestry\** and *cultivation\** in a manner that ensures:

- (a) *accelerated erosion\** and any associated damage to people, buildings and *infrastructure*<sup>^</sup> and other physical resources of regional or national importance are avoided as far as reasonably practicable or otherwise remedied or mitigated, and
- (b) increased sedimentation in *water bodies*<sup>^</sup> as a result of human activity is avoided as far as reasonably practicable, or otherwise mitigated.

#### 12.1.2 Policies

**Policy 12-1A: Regional rules<sup>^</sup> for vegetation clearance\*, land disturbance\*, forestry\* and cultivation\***

The Regional Council must:

- (a) regulate *vegetation clearance\**, *land disturbance\**, *forestry\** and *cultivation\** through *regional rules*<sup>^</sup> in accordance with Objectives 11A-1, 11A-2 and 12-1 and Policies 11A-1 to 11A-8, and
- (b) manage the *effects*<sup>^</sup> of *vegetation clearance\** and *land disturbance\** in *Hill Country Erosion Management Areas\** by requiring *resource consents*<sup>^</sup> for those activities:
  - (i) adjacent to some *water bodies*<sup>^</sup>,
  - (ii) involving the removal of some *woody vegetation\**, and
  - (iii) involving the formation of *new tracking\**.

**Policy 12-1: Consent decision-making for vegetation clearance\*, land disturbance\*, forestry\* and cultivation\***

For *vegetation clearance\**, *land disturbance\**, *forestry\** or *cultivation\** that requires *resource consent*<sup>^</sup> under Rule 12-4 or Rule 12-5, the Regional Council must make decisions on consent applications and set consent *conditions*<sup>^</sup> on a case-by-case basis, having regard to:

- (aa) the Regional Policy Statement, particularly Objective 5-2 and Policies 5-2A and 5-5,
- (fa) managing the *effects*<sup>^</sup> of *land disturbance\**, including large-scale earthworks, by requiring *Erosion and Sediment Control Plans\** or other appropriate plans to be prepared,
- (fb) managing the *effects*<sup>^</sup> of *forestry\** by requiring sustainable *forestry\** management practices to be adopted and *Erosion and Sediment Control Plans\** or other appropriate plans to be prepared,
- (fc) managing the *effects*<sup>^</sup> of *cultivation\** adjacent to some *water bodies*<sup>^</sup> through the use of sediment run-off control methods,
- (fd) the appropriateness of establishing *infrastructure*<sup>^</sup> and other physical resources of regional or national importance as identified in Policy 3-1,
- (fe) generally allowing the clearance of *woody vegetation\** on established pasture if that clearance will not lead to *accelerated erosion\** or the increased sedimentation of *water bodies*<sup>^</sup>,
- (ff) generally allowing activities that are for the purpose of managing *natural hazards*<sup>^</sup>, including the reduction of flood risk,
- (fg) generally allowing *forestry\** for soil conservation purposes,
- (fh) generally allowing activities that result in improved *land*<sup>^</sup> stability or enhanced surface *water*<sup>^</sup> quality,
- (fi) any relevant codes of practice, standards, guidelines, or environmental management plans and accepting compliance with them to the extent that they can be used as *conditions*<sup>^</sup> on *resource consents*<sup>^</sup>,
- (h) sediment and erosion control measures required to reasonably minimise adverse *effects*<sup>^</sup>, including those caused by rainfall and storm events, and
- (hi) achieving integrated management through consents that are Region-wide or cover large areas for activities that are widespread and undertaken by or on behalf of a single consent holder including, but not limited to, *infrastructure*<sup>^</sup> and other physical resources of regional or national importance, or *forestry\**, provided any such consents are subject to *conditions*<sup>^</sup>, including review provisions, enabling *site\**-specific matters to be addressed as necessary.

## 12.2 Indigenous Biological Diversity

### 12.2.1 Objective

#### **Objective 12-2: Regulation of activities affecting indigenous *biological diversity*<sup>^</sup>**

The regulation of *vegetation clearance*<sup>\*</sup>, *land disturbance*<sup>\*</sup>, *forestry*<sup>\*</sup> and *cultivation*<sup>\*</sup> and certain other resource use activities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna or to maintain indigenous *biological diversity*<sup>^</sup>, including enhancement where appropriate.

### 12.2.2 Policies

#### **Policy 12-5A: *Regional rules*<sup>^</sup> for activities affecting indigenous *biological diversity*<sup>^</sup>**

The Regional Council must require *resource consents*<sup>^</sup> to be obtained for *vegetation clearance*<sup>\*</sup>, *land disturbance*<sup>\*</sup> and *cultivation*<sup>\*</sup> and certain other resource use activities within *rare habitats*<sup>\*</sup>, *threatened habitats*<sup>\*</sup> and *at-risk habitats*<sup>\*</sup>, and for *forestry*<sup>\*</sup> that does not minimise potential adverse *effects*<sup>^</sup> on those habitats, through *regional rules*<sup>^</sup> in accordance with Objectives 11A-1, 11A-2 and 12-2 and Policies 11A-1 to 11A-8.

#### **Policy 12-5: Consent decision-making for activities in *rare habitats*<sup>\*</sup>, *threatened habitats*<sup>\*</sup> and *at-risk habitats*<sup>\*</sup>**

- (a) For activities regulated under Rule 12-6, the Regional Council must make decisions on consent applications and set consent *conditions*<sup>^</sup> on a case-by-case basis, having regard to:
- (i) the Regional Policy Statement, particularly Objective 7-1 and Policy 7-2A,
  - (ii) the significance of the area of habitat, in terms of its representativeness, rarity and distinctiveness, and ecological context, as assessed under Policy 12-6,
  - (iii) the potential adverse *effects*<sup>^</sup> of the proposed activity on that significance, and
  - (iv) for activities regulated under ss13, 14 and 15 RMA, the matters set out in Policy 12-1(h) and relevant objectives and policies in Chapters 6, 13, 15 and 16.
- (b) Consent must generally not be granted for *vegetation clearance*<sup>\*</sup>, *land disturbance*<sup>\*</sup>, *forestry*<sup>\*</sup> or *cultivation*<sup>\*</sup> and certain other resource use activities in a *rare habitat*<sup>\*</sup>, *threatened habitat*<sup>\*</sup> or *at-risk habitat*<sup>\*</sup> assessed to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna, unless:
- (i) any more than minor adverse *effects*<sup>^</sup> on that habitat's representativeness, rarity and distinctiveness, or ecological context assessed under Policy 12-6 are avoided as far as reasonably practicable, or otherwise remedied or mitigated, or

- (ii) any more than minor adverse *effects*<sup>^</sup> which cannot reasonably be avoided, remedied or mitigated are offset to result in a net indigenous *biological diversity*<sup>^</sup> gain.
- (c) Consent must generally be granted for *vegetation clearance*<sup>\*</sup>, *land disturbance*<sup>\*</sup>, *forestry*<sup>\*</sup> or *cultivation*<sup>\*</sup> and certain other resource use activities in an *at-risk habitat*<sup>\*</sup> assessed not to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna when:
  - (i) there will be no significant adverse *effects*<sup>^</sup> on that habitat's representativeness, rarity and distinctiveness, or ecological context as assessed in accordance with Policy 12-6, or
  - (ii) any significant adverse *effects*<sup>^</sup> are avoided, as far as reasonably practicable, or otherwise remedied or mitigated, or
  - (iii) any significant adverse *effects*<sup>^</sup> which cannot reasonably be avoided, remedied or mitigated are offset to result in a net indigenous *biological diversity*<sup>^</sup> gain.
- (d) When assessing an offset in accordance with (b)(ii) or (c)(iii), decision-makers must have regard to:
  - (i) the desirability of providing for a net gain within the same habitat type,
  - (ii) the desirability of providing for a net gain in the same ecologically relevant locality as the affected habitat, and
  - (iii) the appropriateness of establishing *infrastructure*<sup>^</sup> and other physical resources of regional or national importance as identified in Policy 3-1.

**Policy 12-6: Criteria for assessing the significance of, and the *effects*<sup>^</sup> of activities on, an area of habitat**

- (a) An area of *rare habitat*<sup>\*</sup>, *threatened habitat*<sup>\*</sup> or *at-risk habitat*<sup>\*</sup> may be recognised as being an area of significant indigenous vegetation or a significant habitat of indigenous fauna if:
  - (i) in terms of representativeness, that habitat:
    - (A) comprises indigenous habitat type that is under-represented (20% or less of known or likely former cover), or
    - (B) is an area of indigenous vegetation that is large relative to other areas of habitat in the Ecological District or Ecological Region, with indigenous species composition, structure and diversity typical of the habitat type, and
    - (C) has functioning ecosystem processes.or
  - (ii) in terms of rarity and distinctiveness, that habitat supports an indigenous species or community that:
    - (A) is classified as threatened (as determined by the *New Zealand Threat Classification System and Lists*<sup>\*</sup>), or
    - (B) is distinctive to the Region, or
    - (C) is at a natural distributional limit, or

- (D) has a naturally disjunct distribution that defines a floristic gap, or
  - (E) was originally (ie., prehuman) uncommon within New Zealand, and supports an indigenous species or community of indigenous species.
- or
- (iii) in terms of ecological context, that habitat provides:
    - (A) connectivity (physical or process connections) between two or more areas of indigenous habitat, or
    - (B) an ecological buffer (provides protection) to an adjacent area of indigenous habitat (terrestrial or aquatic) that is ecologically significant, or
    - (C) part of an indigenous ecological sequence or connectivity between different habitat types across a gradient (eg., altitudinal or hydrological), or
    - (D) important breeding areas, seasonal food sources, or an important component of a migration path for indigenous species, or
    - (E) habitat for indigenous species that are dependent on large and contiguous habitats.
  - (b) The potential adverse *effects*<sup>^</sup> of *vegetation clearance*<sup>\*</sup>, *land disturbance*<sup>\*</sup>, *forestry*<sup>\*</sup> or *cultivation*<sup>\*</sup> on a *rare habitat*<sup>\*</sup>, *threatened habitat*<sup>\*</sup> or *at-risk habitat*<sup>\*</sup> must be determined by the degree to which the proposed activity will diminish any of the above characteristics of the habitat that make it significant, while also having regard to the ecological sustainability of that habitat.

### 12.3 Rules - *Vegetation clearance\**, *land disturbance\**, *forestry\** and *cultivation\** and indigenous biological diversity

Rule	Activity	Classification	Conditions/Standards/Terms	Control/Discretion Non-Notification
<b>12-1</b> <b>Large-scale land disturbance*</b> , <b>including earthworks</b>	Except as regulated by Rules 12-4 and 12-6, any <i>land disturbance*</i> pursuant to s9(3) RMA of a total area greater than 2500 m <sup>2</sup> per <i>property*</i> per 12-month period and any ancillary: (a) diversion of <i>water</i> <sup>^</sup> pursuant to s14(1) RMA on the <i>land</i> <sup>^</sup> where the <i>land disturbance*</i> is undertaken, or (b) <i>discharge</i> <sup>^</sup> of sediment into <i>water</i> <sup>^</sup> pursuant to s15(1) RMA resulting from the <i>land disturbance*</i> .	<b>Permitted</b>	(a) The activity must not take place on <i>land</i> <sup>^</sup> that is within a <i>coastal foredune*</i> . (b) The activity must be undertaken in accordance with an <i>Erosion and Sediment Control Plan*</i> which must be submitted to the Regional Council upon request. (c) The Regional Council must be notified at least 48 hours prior to the activity commencing.	
<b>12-2</b> <b>Forestry*</b>	Except as regulated by Rule 12-6, any <i>forestry*</i> pursuant to s9(2) RMA, and any ancillary: (a) disturbance of the <i>bed</i> <sup>^</sup> of a <i>river</i> <sup>^</sup> or <i>lake</i> <sup>^</sup> pursuant to s13(1) RMA by <i>forestry*</i> , or (b) diversion of <i>water</i> <sup>^</sup> pursuant to s14(1) RMA on the <i>land</i> <sup>^</sup> (but not within a <i>river</i> <sup>^</sup> ) where the <i>forestry*</i> is undertaken, or (c) <i>discharge</i> <sup>^</sup> of sediment or <i>slash</i> <sup>*</sup> into <i>water</i> <sup>^</sup> pursuant to s15(1) RMA resulting from the <i>forestry*</i> .	<b>Permitted</b>	(a) The activity must not take place on <i>land</i> <sup>^</sup> that is within a <i>coastal foredune*</i> . (b) Any planting or replanting of <i>forestry*</i> trees must not occur on <i>land</i> <sup>^</sup> that is in, or within 5 m of: (i) the <i>bed</i> <sup>^</sup> of a <i>river</i> <sup>^</sup> that is permanently flowing or has an <i>active bed*</i> width greater than 2 m (ii) the <i>bed</i> <sup>^</sup> of a <i>lake</i> <sup>^</sup> (iii) a <i>rare habitat*</i> , <i>threatened habitat*</i> or <i>at-risk habitat*</i> . (c) If any <i>rare habitat*</i> , <i>threatened habitat*</i> or <i>at-risk habitat*</i> is present within or within 5 m of an area of <i>forestry*</i> prior to undertaking harvesting an <i>operational plan*</i> must be prepared and submitted to the Regional Council and the <i>operational plan*</i> must be complied with. (d) Any area of <i>forestry*</i> that is harvested (other than firebreaks, <i>tracks*</i> , landing <i>sites*</i> or areas in (a) and (b)) must be planted or replanted to protect from erosion as soon as practicable and no later than 18 months from	

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			<p>the date of the harvesting, unless the area is left to revegetate naturally.</p> <ul style="list-style-type: none"> <li>(e) <i>Water</i><sup>^</sup> run-off controls must be installed and maintained for <i>tracks</i><sup>*</sup> and landing <i>sites</i><sup>*</sup>.</li> <li>(f) Batters, cuts and side castings must be established by methods that prevent slumping.</li> <li>(g) Vegetation must be felled away from any area listed in (b), other than where this would endanger the health and safety of workers.</li> <li>(h) Felled vegetation must not be dragged through any <i>water body</i><sup>^</sup> or area listed in (b), other than where this is necessary to avoid endangering the health and safety of workers.</li> <li>(i) Harvesting must be planned and carried out so as to minimise the amount of <i>slash</i><sup>*</sup> entering any area listed in (b).</li> <li>(j) <i>Slash</i><sup>*</sup> must be removed from within areas listed in (b)(i) where it is blocking <i>river</i><sup>^</sup> flow, or is diverting <i>river</i><sup>^</sup> flow and causing bank erosion.</li> <li>(k) <i>Slash</i><sup>*</sup> associated with landing <i>sites</i><sup>*</sup> and processing <i>sites</i><sup>*</sup> must be placed on stable ground and managed to avoid it falling down any slope.</li> <li>(l) The activity must be undertaken in accordance with an <i>Erosion and Sediment Control Plan</i><sup>*</sup> which must be submitted to the Regional Council upon request.</li> </ul>	
<p><b>12-3</b> <b>Cultivation*</b></p>	<p>Except as regulated by Rule 12-6, any <i>cultivation</i><sup>*</sup> pursuant to s9(2) RMA within 5 m of:</p> <ul style="list-style-type: none"> <li>(a) the <i>bed</i><sup>^</sup> of a <i>river</i><sup>^</sup> that is permanently flowing or has an <i>active bed</i><sup>*</sup> width greater than 2 m, or</li> <li>(b) the <i>bed</i><sup>^</sup> of a <i>lake</i><sup>^</sup>, or</li> <li>(c) a <i>wetland</i><sup>^</sup></li> </ul>	<p><b>Permitted</b></p>	<ul style="list-style-type: none"> <li>(a) The activity must not take place on <i>land</i><sup>^</sup> that is within a <i>coastal foredune</i><sup>*</sup>.</li> <li>(b) Bunding, silt traps, interception drains or other alternative methods to minimise sediment run-off to <i>water</i><sup>^</sup> must be installed prior to and maintained during <i>cultivation</i><sup>*</sup>.</li> </ul>	

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	and any ancillary: (d) diversion of <i>water</i> <sup>^</sup> pursuant to s14(1) RMA on the <i>land</i> <sup>^</sup> where the <i>cultivation</i> <sup>*</sup> is undertaken, or (e) <i>discharge</i> <sup>^</sup> of sediment into <i>water</i> <sup>^</sup> pursuant to s15(1) RMA resulting from the <i>cultivation</i> <sup>*</sup> or the use of bunding, silt traps, interception drains or other alternative methods to minimise sediment run-off into <i>water</i> <sup>^</sup> .		<b>Advice Note:</b> Examples of alternative methods for minimising sediment run-off can be found in the Code of Practice for Commercial Vegetable Growing in the Horizons Region (Horticulture New Zealand).	
<b>12-4</b> <b>Specified vegetation clearance* and land disturbance* in a Hill Country Erosion Management Area*</b>	Except as regulated by Rule 12-6, any <i>vegetation clearance</i> <sup>*</sup> or <i>land disturbance</i> <sup>*</sup> pursuant to s9(2) RMA undertaken within a <i>Hill Country Erosion Management Area</i> <sup>*</sup> : (a) within 5 m of the <i>bed</i> <sup>^</sup> of a <i>river</i> <sup>^</sup> that is permanently flowing or has an <i>active bed</i> <sup>*</sup> width greater than 2 m, or (b) within 5 m of the <i>bed</i> <sup>^</sup> of a <i>lake</i> <sup>^</sup> , or (c) 5 m of a <i>wetland</i> <sup>^</sup> , or (d) involving the clearance of 1 ha or greater per <i>property</i> <sup>*</sup> per 12-month period of <i>woody vegetation</i> <sup>*</sup> where the <i>canopy</i> <sup>*</sup> cover of <i>woody vegetation</i> <sup>*</sup> in the area to be cleared is greater than 70%, or (e) involving <i>new tracking</i> <sup>*</sup> and any ancillary: (f) diversion of <i>water</i> <sup>^</sup> pursuant to s14(1) RMA on the <i>land</i> <sup>^</sup> where the <i>vegetation clearance</i> <sup>*</sup> or <i>land disturbance</i> <sup>*</sup> is undertaken, or	<b>Restricted Discretionary</b>	(a) The activity must not take place on <i>land</i> <sup>^</sup> that is within a <i>coastal foredune</i> <sup>*</sup> .	Discretion is restricted to: (a) the location, nature, scale, timing and duration of the activity (b) <i>effects</i> <sup>^</sup> of the activity and associated sediment run-off on soil conservation, surface <i>water</i> <sup>^</sup> quality and aquatic ecology (c) the principles and erosion and sediment control measures set out in Chapters 3-9 of the Erosion and Sediment Control Guidelines for the Wellington Region (September 2002) (d) duration of consent and review of consent <i>conditions</i> <sup>^</sup> (e) compliance monitoring.  <i>Resource consent</i> <sup>^</sup> applications under this <i>rule</i> <sup>^</sup> will not be notified and written approval of affected persons will not be required (notice of applications need not be <i>served</i> <sup>^</sup> on affected persons).

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	(g) <i>discharge</i> <sup>^</sup> of sediment into <i>water</i> <sup>^</sup> pursuant to s15(1) RMA resulting from the <i>vegetation clearance</i> <sup>*</sup> or <i>land disturbance</i> <sup>*</sup> .			
<b>12-5</b> <b>Vegetation clearance<sup>*</sup>, land disturbance<sup>*</sup>, cultivation<sup>*</sup> or forestry<sup>*</sup> that does not comply with Rules 12-1 to 12-4</b>	Except as regulated by Rule 12-6, any <i>vegetation clearance</i> <sup>*</sup> , <i>land disturbance</i> <sup>*</sup> , <i>cultivation</i> <sup>*</sup> or <i>forestry</i> <sup>*</sup> pursuant to s9(2) RMA that does not meet the <i>conditions</i> <sup>^</sup> , standards or terms of Rules 12-1, 12-2, 12-3 or 12-4 and any ancillary: (a) disturbance of the <i>bed</i> <sup>^</sup> of a <i>river</i> <sup>^</sup> or <i>lake</i> <sup>^</sup> by <i>forestry</i> <sup>*</sup> authorised by those <i>rules</i> <sup>^</sup> pursuant to s13(1) RMA (b) diversion of <i>water</i> <sup>^</sup> authorised by those <i>rules</i> <sup>^</sup> pursuant to s14(1) RMA, or (c) <i>discharge</i> <sup>^</sup> of sediment or <i>slash</i> <sup>*</sup> authorised by those <i>rules</i> <sup>^</sup> pursuant to s15(1) RMA.	<b>Discretionary</b>		
<b>12-6</b> <b>Some activities within rare habitats<sup>*</sup>, threatened habitats<sup>*</sup> and at-risk habitats<sup>*</sup></b>	Except as regulated by Rules 13-2, 13-10, 13-22, 15-5B, 15-9, 16-3, 16-5, 16-6, 16-8 in relation to any existing small dam <i>structure</i> <sup>^</sup> , 16-13 and 16-14, any of the following activities within a <i>rare habitat</i> <sup>*</sup> , <i>threatened habitat</i> <sup>*</sup> or <i>at-risk habitat</i> <sup>*</sup> : (a) <i>vegetation clearance</i> <sup>*</sup> , <i>land disturbance</i> <sup>*</sup> or <i>cultivation</i> <sup>*</sup> pursuant to s9(2) RMA (b) <i>forestry</i> <sup>*</sup> pursuant to s9(2) RMA that does not meet <i>condition</i> <sup>^</sup> , standard or term of Rule 12-2 (b)(iii) or (c) (c) the drilling, construction or alteration of any <i>bore</i> <sup>*</sup> pursuant to s9(2) RMA	<b>Discretionary</b>		

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	(d) activities restricted by s13(1) or s13(2) RMA in the <i>beds</i> <sup>^</sup> of <i>rivers</i> <sup>^</sup> or <i>lakes</i> <sup>^</sup> (e) the taking, using, damming or diverting of <i>water</i> <sup>^</sup> pursuant to s14(2) RMA (f) <i>discharge</i> <sup>^</sup> of <i>water</i> <sup>^</sup> or <i>contaminants</i> <sup>^</sup> into <i>water</i> <sup>^</sup> or onto or into <i>land</i> <sup>^</sup> pursuant to s15(1) or s15(2A) RMA.			