

**BEFORE THE ENVIRONMENT COURT**

IN THE MATTER OF

appeals under clause 14 of the First Schedule to the Resource Management Act 1991 concerning Proposed One Plan for the Manawatu-Wanganui Region

**FEDERATED FARMERS OF NEW ZEALAND ENV-2010-WLG-000148**

AND

**MINISTER OF CONSERVATION ENV-2010-WLG-000150**

AND

**HORTICULTURE NEW ZEALAND ENV-2010-WLG-000155**

AND

**WELLINGTON FISH & GAME COUNCIL ENV-2010-WLG-000157**

Appellants

AND

**MANAWATU-WANGANUI REGIONAL COUNCIL**

Respondent

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**STATEMENT OF EVIDENCE OF SHANE ALEXANDER HARTLEY**

**ON BEHALF OF FEDERATED FARMERS OF NEW ZEALAND**

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**1.0 INTRODUCTION**

1.1 My name is Shane Alexander Hartley. I am a Director of Terra Nova Planning. I hold the qualifications of Bachelor of Arts in Political Studies and History, and Bachelor of Town Planning. I am a Member of the NZ Planning Institute.

1.2 I was actively involved in policy and resource consent processes while employed by the Rodney District Council between 1981 and 1999

holding the various positions of Planner, Senior Planner, Planning Manager, and Forward Planning Manager, and since 1999 have as a consultant been involved in numerous policy and consent processes for both private clients and public agencies.

1.3 My professional experience has substantially been in the area of strategic and District Plan land use. My extensive experience with statutory processes and documents includes:

- the Auckland and Northland Regional Policy Statements,
- Auckland Regional Growth Strategy,
- Waikato Regional Plan: Variation 5 - Lake Taupo
- District Structure Planning,
- District Plan resource management, including Plan and plan change / variation preparation and processing, and
- land use and subdivision resource consent applications and private plan changes.

1.4 I have read and agree to comply with the Environment Court's Expert Witness Code of Conduct Practice Notes. This evidence is within my area of expertise, except where I state that I am relying on some other evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **2.0 LAND DISTURBANCE - ACTIVITY STATUS**

2.1 The Council's Decision Report established a rule for large scale land disturbance including earthworks activities (Rule 12-1) which provided for land disturbance activity in excess of 2,500m<sup>2</sup> per property for a 12 month period (and ancillary activities) as a Permitted Activity subject to three defined conditions and/or standards. Smaller scale land disturbance activities of under 2,500m<sup>2</sup> in area are not explicitly identified or regulated in the rules and may proceed without the need to comply with any standards or conditions from the Plan.

2.2 Appeals seek to establish additional control over land disturbance activities, including those below 2,500m<sup>2</sup> to be subject to additional controls. Amended proposed rules have been included in the planning evidence by Mr Hindrup on behalf of the Manawatu-Wanganui Regional Council. These provide:

- (a) a new permitted activity rule (12-1A) for small scale land disturbance activities of less than 2,500m<sup>2</sup> per property per 12 month period, qualified by a list of nine conditions and/or standards<sup>1</sup> and
- (b) an amended rule (12-1) for large scale land disturbance as a controlled activity with additional conditions and standards and a list of control/discretion matters.

2.3 The proposed amendments would be a significant departure from the policy approach taken by the Council Hearing Committee, which applied a policy approach that avoided regulation of certain routine farm and production land activities (such as such as track maintenance, clearance of vegetation regrowth, maintenance of riparian strips, soil cultivation and pasture renewal), concluding that:

We agree that these types of production land activities should generally not require regulatory intervention from the Regional Council. To the extent that they do contribute to accelerated erosion and sediment run-off, they can be managed through voluntary initiatives such as the Council's SLUI<sup>2</sup>.

2.4 The Hearings Panel applied this 'light handed' regulatory approach to routine farming and production activities in two ways; being

(i) The application of a permitted activity rule for large-scale land disturbance, including earthworks, of a total area greater than 2500m<sup>2</sup> per property per 12-month period, and ancillary water diversion and sediment discharge, subject to:

- exclusion from coastal foredunes;
- the preparation of a Erosion and Sediment Control Plan and submission of it to the Regional Council on request; and
- 48 hour pre-commencement notification of the Regional Council.

Any area under 2,500m<sup>2</sup> is not specified in the Plan and such activities are permitted without the need to comply with the above conditions or standards.

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<sup>1</sup> Appendix 1, Phillip Hindrup Statement of Evidence, 31 January 2012

<sup>2</sup> Page 4-19; Land Hearing Decision Report ; One Plan; Horizons Regional Council.

(ii) The exclusion of routine activities from the definitions of vegetation clearance and land disturbance in the Plan's Glossary.

2.5 On balance, I consider that Mr Hindrup's proposal to establish a new permitted activity for activities under 2,500m<sup>2</sup> is reasonable as the conditions and standards are clear, measurable (subject to two matters I discuss shortly), and environmentally sustainable. I do not consider that compliance with them would be onerous or costly – essentially being along the lines of “best practice”.

2.6 The two matters I have signalled above relate to water quality and slope angle/measurement.

*Visual quality*

2.7 In regard to the first, the requirement to not breach the water quality numerics for visual quality in Schedule D for the relevant water body would seem to require a very complex analysis, for what is in essence a very low level of land disturbance activity. In this respect Dr McConchie has observed that;

The condition regarding the discharge of sediment should recognise the ‘field application’ of such a standard. I would propose that the condition refer to a ‘noticeable change in colour and clarity’ rather than referring to a precise ‘technical standard’ derived from either laboratory or field analysis.

2.8 A standard similar to that suggested by Dr McConchie is used in the Auckland Regional Plan: Sediment Control, being;

Sediment originating from the site of a land disturbance activity shall be managed in such a way to ensure that after reasonable mixing it does not give rise to any of the following effects to the receiving waters:

- (i) The production of any conspicuous scums or foams or floatable suspended materials;
- (ii) Any conspicuous change in the colour or visual clarity;
- (iii) Any emission of objectionable odour;
- (iv) The rendering of freshwater unsuitable for consumption by farm animals;
- (v) Any significant adverse effect on aquatic life.

2.9 I consider that this level of measurement is preferable to that applied by reference to Schedule D for “low end” land disturbance activities.

*Slope angle*

- 2.10 With respect to the specified slope angle and measurement Dr McConchie has observed that;

The recognition of a threshold slope angle, while not ideal, would be simple to implement if guidance was provided as to how and where the slope was to be measured”.

- 2.11 I agree with his concern as it is important that a landowner is able to relatively easily assess the extent of slope that triggers the 25° rule threshold.

- 2.12 As an example of a quantitative guide for slope measurement, I note that the Auckland Regional Plan: Sediment Control utilises a threshold slope angle of 15° with “slope” defined as;

The natural slope of the site to which the proposed land disturbance activity relates where that slope exceeds the angle specified in the rules in this Regional Plan for more than 10%.

- 2.13 As the Auckland Regional Plan: Sediment and is developed for somewhat different geographic and topographical circumstances to those existing in the Manawatu-Wanganui Region, this definition may not be directly transportable, but I consider that this or a similar approach with appropriate specialist input would likely address the issue identified by Dr McConchie.

- 2.14 The remaining issue is that of the controlled activity status that Mr Hindrup has proposed for large scale land disturbance of more than 2,500m<sup>2</sup> per property per 12 month period. I consider that this is a very low threshold to trigger a resource consent process, even as a controlled activity. But because of that, it casts a very wide net, potentially capturing a large number of land disturbance activities, including many routine farming activities. Mr Hindrup has partly justified his preference for a controlled activity approach on the basis that certain land uses such as urban development and subdivision and wind farms have generated sedimentation issues in the past.

- 2.15 However, it is unclear whether the particular sediment and erosion effects occurring with those examples are also characteristic and typical of many rural land practices (for example). It would also seem probable that many large scale land disturbance activities with extensive tracking, such as the referred to wind farm, would trigger

Rule 12-4 of the DV POP relating to Hill Country Erosion Management Areas.

- 2.16 I note as a comparison, that the land and soil module of the Waikato Regional Plan has a Permitted Activity Rule (Rule 5.1.4.11) for soil disturbance, roading and tracking and vegetation clearance without “area” or “volume” thresholds but subject to an extensive list of conditions<sup>3</sup>.
- 2.17 This Plan also identifies “high risk erosion areas” which includes such matters as a pre-existing slope of land exceeding 25°, coastal dunes, within 50m of the coastal marine area of an estuary, and adjacent to water bodies - the latter having two specifications of 10m where the land is between 0° and 15° slope, and further restrictions where it is greater than 15°.
- 2.18 Within the high risk erosion area, soil disturbance, roading and tracking and vegetation clearance are controlled activities (Rule 5.1.4.14) within specified limits; being
- Roding and tracking:           Between 100m and 2,000m
  - Soil disturbance:                Between 250m<sup>3</sup> and 1,000m<sup>3</sup> or  
  2,000m<sup>2</sup> and 2ha
- 2.19 Activities exceeding the controlled activity limits are discretionary activities (Rule 5.1.4.15).
- 2.20 In my opinion the amendment of Rules 12-1A and 12.1, with consequential changes to Rules 12-4 and 12-5 to take an approach closer to that applied in Waikato Region would be appropriate to the Manawatu-Wanganui region, and would also be closer to the policy approach taken by the Council in the DV POP. This includes the retention of a permitted activity rule, but one that regulates all land disturbance activities, and applies specific and easily measurable standards or conditions.

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<sup>3</sup> Appendix 1

### 3.0 LAND DISTURBANCE ACTIVITIES – SETBACKS FROM STREAMS, LAKES AND WETLANDS

3.1 Federated Farmers has concerns with the existing DV POP rules and changes proposed in response to appeals to setbacks from and wetlands; in particular the application of setbacks of 5m from rivers and lakes; and 10m from wetlands. This includes the matter of determining when an area is or isn't wetland under the rules as they currently stand.

#### *Wetland definition*

3.2 In regard to the issue of wetland determination, Rules 12.3 - Cultivation and 12.4 - Specified Vegetation Clearance and Land Disturbance in a Hill Country Erosion Management Area specify a setback of 5m from wetland. At present there is no specific Glossary definition in the Plan for this term and therefore reliance is on the definition in the RMA (indicated by a caret “^”).

3.3 The RMA definition would appear to often include land which might be typically and appropriately utilised for farming purposes, but is land which is seemingly exempted under Table E.2(b) of Schedule E in the Plan.

3.4 The RMA definition is:

Wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

3.5 In contrast, the criteria set out in Table E.2(b) for any area that must not be a rare, threatened or at-risk habitat for the purposes of the Plan include:

(iii) Damp gully heads, or paddocks subject to regular ponding, dominated\* by pasture or exotic species in association\* with wetland^ sedge and rush species

along with additional examples specified in (iv) to (vii).

3.6 The references to ‘wetland’ in Rules 12-3 and 12-4, and Table E.2(b) is marked with a caret “^” indicating that the appropriate definition is to be found in the RMA. I consider that instead there should be a direct connection between the reference to “wetland” in Rules 12-4 and

12-5 and the exclusion provisions of Table E.2(b), rather than the more circuitous and potentially conflicting route of referring to the RMA definition. This can be achieved by adding a new definition to the Regional Plan Glossary in a similar way to that for “Rare habitats” along the lines of;

Wetland for the purposes of rules 12-3 and 12-4 means an area determined to be a wetland in accordance with Schedule E and, for the avoidance of doubt, excludes any area in Table E.2(b) (iii) to (vii).

- 3.7 I think it is important to specifically refer to Rules 12-3 and 12-4 in this definition to avoid the qualified wetland description in Table E.2(b) becoming the default definition for wetland for all other references in the Plan when that should be the RMA definition.

*Setback distance*

- 3.8 The proposed changes to Rules proposed by Mr Hindrup to Rules 12-1A, 12-1, 12-3, and 12-4A include:

- the introduction of a 5m setback from the bed of a river or lake, and a 10m setback from a wetland for activities which were previously unregulated or permitted (Rules 12-1A and 12-1); and
- increasing the setback from 5m to 10m for wetlands for the existing (albeit modified) rules (Rules 12-3 and 12-4A).

- 3.9 It is not clear from the Council Decision Report why a 5m setback was not applied to Rule 12-1, as it was to 12-2, 12-3 and 12-4. The Hearing Panel noted that;

... a range of submitters supported the concept of riparian margins where land disturbance and vegetation clearance would be avoided, or actively managed. For example Wellington Fish & Game advised us that “... Fish and Game advocates for at absolute minimum a set back distance of 6meters [sic], for small streams, with wider margins for larger streams”.<sup>36</sup> We concluded that one distance of 5 m was appropriate as it would provide adequate protection<sup>4</sup>.

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<sup>4</sup> Page 4-21; Land Hearing Decision Report ; One Plan; Horizons Regional Council.



3.10 Mr Hindrup addresses this matter in his paragraphs 126 to 133, relying on the evidence of Dr Quinn and Mr Kirk to support the 5m and 10m regime he proposes for the amended rules. However, I note that his reference to Dr Quinn is in regard to “ ... *the use of 5-10m setbacks...*”, and Mr Kirk in regard to “*A 5m riparian zone ...*” He then concludes that;

... cultivation within a 5 metre distance from a water body, or 10 metres from a higher valued water body should not be allowed to occur as of right ...<sup>5</sup>

3.11 In my opinion, the general support for a 5m setback by the Hearing Panel, Dr Quinn, Mr Kirk and Mr Hindrup indicates that this is an appropriate protection measure across the board for rivers, lakes, and wetlands, and I consider that this should be incorporated in the rules I refer to in paragraph 2.20 above - including for permitted activities. In tandem with the addition of a specific definition for ‘wetland’ as I propose above, I consider that this will apply an appropriate level of control on potential sediment generating activities.

3.12 However, I do not support the application of a 10m setback for activities from wetlands as I do not consider that the need for this has been substantiated. The ‘removal’ of an additional 5m wide strip from many routine farming activities, for example, can result in a significant loss of farmable land. I do not consider that the any more than a 5m setback is warranted.

Shane Hartley

21 February 2012

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<sup>5</sup> Para 133; Phillip Hindrup’s Statement of Planning Evidence; 31 January 2012

**APPENDIX 1**

**Waikato Regional Council Rule 5: Land and Soil Module**

## 5 Land and Soil Module

### 5.1 Accelerated Erosion\*

#### 5.1.4 Implementation Methods - Accelerated Erosion

##### 5.1.4.1 Environmental Education

Waikato Regional Council will, through environmental education programmes, raise awareness within the regional community:

1. of sustainable soil management practices for activities that cause accelerated erosion and how these practices can be implemented
2. on how to undertake retirement and/or rehabilitation of land subject to severe accelerated erosion
3. of the value of 'care' groups to avoid the adverse effects of accelerated erosion and remedy or mitigate these effects if they do occur
4. on the significance of cave karst landscapes and land use practices that avoid, remedy or mitigate adverse effects on them.

##### 5.1.4.2 Investigation

Waikato Regional Council will undertake, and where appropriate, encourage investigation into:

1. the extent to which different activities cause accelerated erosion, contribute sediment to water bodies and adversely affect aquatic and estuarine habitats
2. the location, extent, severity and causes of accelerated erosion in the Waikato Region
3. the adverse effect of activities causing accelerated erosion,
4. sustainable land management practices.

##### 5.1.4.3 Good Practice

Waikato Regional Council will, in conjunction with relevant organisations, industry groups and individuals undertaking activities causing accelerated erosion, provide guidance on the development, implementation and review of good practice techniques or appropriate codes of practices.

##### 5.1.4.4 Economic Incentives

Waikato Regional Council will consider providing funding contributions for the promotion and implementation of new initiatives that assist in resolving accelerated erosion problems within the Region.

##### 5.1.4.5 Property Management Plans/Environmental Management Systems

Waikato Regional Council will encourage and assist landowners with the development and implementation of property management plans and environmental management systems that identify erosion risk areas and measures to avoid, remedy or mitigate adverse environmental effects of land use activities.

##### 5.1.4.6 Investigate Approved Operators Approach

Waikato Regional Council will investigate the workability of an 'approved operators approach' with respect to soil disturbance and vegetation clearance activities in the Waikato Region and initiate a change to the Plan if such an approach is appropriate.

##### 5.1.4.7 Joint Plans/Strategies

Waikato Regional Council will promote the preparation and implementation of joint plans, strategies or agreements with territorial authorities to address accelerated erosion issues. Priority will be given to joint plans, strategies or agreements for:

1. the Region's karst landscapes
2. the Coromandel and west coast estuaries
3. the Lake Taupo Catchment.

##### 5.1.4.8 Information, advice and comments on Land Use Consent Applications

Waikato Regional Council will provide information, advice and comments and, if appropriate, submissions on consent applications submitted to territorial authorities where such applications may result in adverse effects on soil conservation, land stability, erosion hazards and dune systems. A formal process for the advice on land use consent applications and provision of comments, advice and submissions will be developed in conjunction with territorial authorities.

##### 5.1.4.9 Effects of Livestock Management

If the current extent of adverse effects attributable to livestock having access to water bodies is not reduced significantly at the time of Plan review or by 2005, whichever is the sooner, then rules to exclude livestock from water bodies identified by Method 3.9.4.6 as being particularly sensitive to land use effects, will be promoted as part of the Plan review or by way of a Plan change.

##### 5.1.4.10 Part XII RMA Enforcement

Waikato Regional Council will apply for enforcement orders, issue abatement notices and use other enforcement mechanisms in Part XII of the RMA, where an activity breaches conditions of rules or has the effects listed in Policy 1.

Land use practices that may result in or increase the potential for, the adverse effects listed in Issue 5.1.1 to occur include:

1. intensive mob stocking and inappropriate livestock type
2. livestock grazing on river and lake banks and beds
3. vegetation clearance on slopes greater than 25 degrees that are not revegetated within six to 12 months
4. soil disturbance activities where there is inadequate sediment and runoff control
5. soil disturbance on sand dunes and in the margins of the coastal marine area.

##### 5.1.4.11 Permitted Activity Rule - Soil Disturbance, Roading and Tracking and Vegetation Clearance

1. Unless otherwise provided for by Rules 5.1.4.14, 5.1.4.15, 5.1.4.16 or 5.1.4.17, soil disturbance, roading and tracking, and vegetation clearance and any associated deposition of slash into or onto the beds of rivers and any subsequent discharge of contaminants into water or air;
2. Any roading and tracking activities associated with the installation of bridges or culverts permitted by Rules 4.2.8.1, 4.2.9.1 and 4.2.9.2, within 20 metres of that bridge or culvert and any associated deposition of slash into or onto the beds of rivers and any subsequent discharge of contaminants into water or air;
3. Vegetation clearance of planted production forest as planted at the date upon which this Plan becomes operative;

are permitted activities subject to the conditions in Section 5.1.5. In addition 5.1.4.11(3) is subject to the following conditions:

- a. Provided that replanting of planted production forest does not occur within:
  - i. five metres, on either side, of the bed of a water body excluding an ephemeral stream (except on the Coromandel Peninsula); and
  - ii. ten metres, on either side of the bed of a water body excluding an ephemeral stream on the Coromandel Peninsula streams greater than 50 hectares
  - iii. five metres on either side of the bed of water bodies between 20 and 50 hectares on the Coromandel Peninsula regardless of slope;
- b. On the Coromandel Peninsula where wilding pines are present at a density of greater than 50 stems per kilometre of riparian margin they will all be removed at first thinning so long as practicable from a safety perspective.

##### Advisory Notes:

- District plans may have rules which restrict land disturbance and vegetation clearance in areas outside of high risk erosion areas.

- Grazing and cultivation are excluded from the requirements of this Rule.

**5.1.4.12 Permitted Activity Rule – Soil Cultivation Adjacent to Water Bodies**  
 Except as controlled by Rules 7.2.6.1 and 7.2.5.2 soil cultivation not less than two metres from the bed of a river or lake and any subsequent discharge of contaminants into water or air is a permitted activity subject to the following conditions:

- The concentration of suspended solids discharged from the activity shall not result in any of the following receiving water standards being breached:
  - in Waikato Region Surface class waters - 100 grams per cubic metre suspended solids concentration
  - in Indigenous Fisheries and Fish Habitat class waters - 80 grams per cubic metre suspended solids concentration
  - in Trout Fisheries and Trout Spawning Habitat class waters - 25 grams per cubic metre suspended solids concentration
  - in Contact Recreation class waters - black disc horizontal visibility greater than 1.6 metres.
  - in Natural State class waters - the activity or discharge shall not increase the concentration of suspended solids in the receiving water by more than 10 percent.

Condition a) shall apply, except where the suspended solids concentration or black disc horizontal visibility in the receiving water is greater than the standards specified, at the time and location of discharge or of undertaking the activity. Then there shall not be any increase (i.e. further deterioration) in the receiving water suspended solids concentration or black disc horizontal visibility of more than 20% as a result of the activity or discharge.

The point at which compliance with this standard shall be measured is after reasonable mixing has occurred which in any instance does not exceed 200 metres from the point of discharge.

**Advisory Note:**

- The bed of a river is defined by the diagram in Chapter 4.1 of this Plan.

**5.1.4.13 Discretionary Activity Rule – Soil Disturbance, Roding and Tracking and Vegetation Clearance**

- Any soil disturbance, roding and tracking, and vegetation clearance and any associated deposition of slash into or onto the beds of rivers and any subsequent discharge of contaminants into water or air that does not comply with the conditions of Permitted Activity Rule 5.1.4.11;
- Soil cultivation within two metres of the bed of a river or lake that does not comply with Rule 5.1.4.12;

are discretionary activities (requiring resource consent).

**Advisory Notes:**

- District plans may have rules, which restrict land disturbance and vegetation clearance in areas outside of high risk erosion areas.
- Information requirements to enable the assessment of any application under this Rule are set out in Section 8.1.4.1 of this Plan. In addition, assessment shall also take into account the matters identified in Policy 1 of Section 5.1.3.

**5.1.4.14 Controlled Activity Rule – Soil Disturbance, Roding and Tracking and Vegetation Clearance, Riparian Vegetation Clearance in High Risk Erosion Areas<sup>1</sup>**

Except as restricted by Rule 5.1.4.13, the following activities, occurring in any continuous 12 month period and located in a high risk erosion area:

- Roding and tracking activities between 100 and 2,000 metres in length, or
- Soil disturbance activities between 250 and 1,000 cubic metres in volume (solid measure), or

- Soil disturbance activities between 0.2 and 2.0 hectares in area, or
- Soil disturbance activities resulting in a cul slope batter exceeding three metres in vertical height over a cumulative distance between 30 and 120 metres in length, or
- Vegetation Clearance of between one and five hectares with the exclusion of planted production forests, plant pests as specified in the Waikato Regional Council's Regional Pest Management Strategy and vegetation clearance adjacent to a Natural State water body as shown on the Water Management Class Maps
- Vegetation clearance which is within five metres on either side, of the banks of a water body excluding an ephemeral stream, and which is between 50 to 100 metres in length per kilometre of that water body, with the exclusion of planted production forests and vegetation in riparian margins adjacent to planted production forest, riparian enhancement and replanting programmes and plant pests as specified in the Waikato Regional Council's Pest Management Strategy.
- Vegetation clearance within five metres on either side of the banks of a water body excluding an ephemeral stream of greater than 50 metres in length per kilometre of that water body of:
  - Planted production forest (except as provided for in Rule 5.1.4.11(3) and/or vegetation in riparian margins adjacent to planted production forest); or
  - Vegetation associated with riparian enhancement programmes.
- Any roding and tracking activities associated with the installation of a bridge or culvert controlled by Rules 4.2.8.2 and 4.2.9.3, within 20 metres of that bridge or culvert.

and any associated deposition of slash into or onto the beds of rivers and any subsequent discharge of contaminants into water or air are **controlled activities** (requiring resource consent) subject to the standards and terms as specified in Section 5.1.5.

Waikato Regional Council reserves control over the matters that are specified in Section 5.1.5.

**Exclusion to Rule 5.1.4.14:**

- This Rule shall not apply to vegetation clearance within high risk erosion areas and riparian vegetation clearance where it is for the express purposes of erosion control or natural hazard mitigation, provided Waikato Regional Council is notified in writing at least ten (10) working days prior to the activity commencing. (Rule 5.1.4.11 applies).
- This Rule shall not apply to the clearance of planted production forest where the clearance is for the express purpose of constructing access across the bed of a river where the crossing structure and associated earthworks are otherwise permitted by this plan or a resource consent.

**Notification:**

- Subject to 2. below applications for resource consents under this Rule will be considered without notification.
- Notice of applications for vegetation clearance under this Rule other than:

- clearance of planted production forest,
- vegetation clearance in riparian margins adjacent to planted production forest, or
- riparian enhancement and replanting programmes

will be served on all adversely affected persons.

**Advisory note:**

- Information requirements to enable the assessment of any application under this Rule are set out in Section 8.1.4.1 of this Plan. In addition, assessment shall also take into account the matters identified in Policy 2 of Section 5.1.3.
- For the disposal of materials in high risk erosion areas generated by activities under Rule 5.1.4.14 refer to Rules 5.2.5.1, 5.2.5.2 and 5.2.5.3.
- For vegetation clearance by way of burning also refer to Section 6.1.12 of this Plan.
- For vegetation clearance by way of spraying agrichemicals also refer to Section 6.2.4 of this Plan.
- Applicants are advised to consult with the relevant district plan to determine whether district rules apply.



## **in Karst Landscapes**

The following activities in karst landscapes:

1. any soil disturbance or vegetation clearance activity undertaken within the catchment of, or 10 metres of, whichever is the lesser, a sinkhole or cave entrance
2. the creation of a new entrance to a cave or soil disturbance within a cave;

and any associated deposition of slash into or onto the beds of rivers and any subsequent discharge of contaminants into water or air are **discretionary activities** (requiring resource consent).

### **Advisory Notes:**

- Information requirements to enable the assessment of any application under this rule are set out in Section 6.1.4.2 of this Plan. In addition, assessment shall also take into account the matters identified in Policy 2 of Section 5.1.3.
- For vegetation clearance by way of burning also refer to Section 6.1.12 of this Plan.
- For vegetation clearance by way of spraying agrichemicals also refer to Section 6.2.4 of this Plan.
- Applicants are advised to consult with the relevant district plan to determine whether district rules apply.

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## **Footnotes**

1. **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 Karaitahi) 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 watercourses draining catchments greater than 100 hectares, but excluding any other ephemeral rivers or streams), where:
    - f. 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
    - g. 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 f).

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

## 5 Land and Soil Module

### 5.1 Accelerated Erosion\*

#### 5.1.5 Conditions for Permitted Activity Rule 5.1.4.1.1 and Standards and Terms for Controlled Activity Rules

- a. Organic material shall not be placed in fill where its subsequent decomposition will lead to land instability.
- b. Erosion/sediment controls shall be installed and maintained on all earthworks during and on completion of the works to avoid the adverse effects of sediment on water bodies.
- c. Cut-offs or culverts shall be designed and installed to prevent scour, gullying or other erosion.
- d. Any erosion or instability of the coastal environment, or the beds of rivers and lakes or wetlands shall be avoided or remedied if it does occur.
- e. The activity shall not result in neighbouring land becoming subject to flooding.
- f. All disturbed vegetation, soil or debris shall be deposited or contained to prevent the movement of disturbed matter so that it does not result in:
  - i. the diversion, damming or blockage of any river or stream, or
  - ii. the passage of fish being impeded, or
  - iii. the destruction of any habitat in a water body or coastal water, or
  - iv. flooding or erosion.
- g. The activity shall not disturb any archaeological site or waahi tapu as identified at the date of notification of this Plan, in any district plan, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places Trust except where Historic Places Trust approval has been obtained.
- h. The concentration of suspended solids in any point source discharge arising from the activity shall comply with the suspended solids standards as set out in Method 3.2.4.6. This condition applies only to permitted activity rules and excludes any non-point source discharges from roading, tracking and vegetation clearance activities (refer condition o) below).
- i. Any discharge of contaminants into air arising from the activity shall comply with the permitted activity conditions in Section 6.1.8 except where the matters addressed in Section 6.1.8 are already addressed by conditions on resource consents for the site.
- j. In the event of any waahi tapu that is not subject to g) above being identified by the Waikato Regional Council to the person undertaking the activity, the activity shall cease insofar as it may affect the waahi tapu. The activity shall not be recommenced without the approval of the Waikato Regional Council.
- k. No storage or mixing of fuels, oils, or agricultural chemicals shall be undertaken in areas where deliberate or inadvertent discharge is likely to enter any permanent natural surface water body.
- l. All vegetation that is being felled within five metres of a perennial water body shall be felled away from the water body, except edge vegetation, or vegetation leaning over a water body, which if necessary may be felled in accordance with safety practices.
- m. All exposed areas of soil resulting from the activity shall be stabilised against erosion by vegetative cover or other methods as soon as practical following completion of the activity and no later than six to twelve months from the date of disturbance to avoid the adverse effects of sediment on water bodies.
- n. The activity shall not be located within 20 metres of a Significant Geothermal Feature.
- o. The concentration of suspended solids in any non-point discharges from roading, tracking and vegetation clearance activities shall meet the following standards;
  - i. The activity or discharge shall not result in any of the following receiving water standards being breached:
    - ii. in Waikato Region Surface class waters - 100 grams per cubic metre suspended solids concentration
    - iii. in Indigenous Fisheries and Fish Habitat class waters - 80 grams per cubic metre suspended solids concentration
    - iv. in Trout Fisheries and Trout Spawning Habitat class waters - 25 grams per cubic metre suspended solids concentration

v. In Contact Recreation class waters - black disc horizontal visibility greater than 1.6 metres

vi. in Natural State class waters - the activity or discharge shall not increase the concentration of suspended solids in the receiving water by more than 10 percent Standard a) shall apply, except where the suspended solids concentration or black disc horizontal visibility in the receiving water is greater than the standards specified, at the time and location of discharge or of undertaking the activity. Then there shall not be any increase (i.e. further deterioration) in the receiving water suspended solids concentration or black disc horizontal visibility of more than 20% as a result of the activity or discharge.

The point at which compliance with this standard shall be measured is after reasonable mixing has occurred which in any instance does not exceed 200 metres from the point of discharge.

- p. Soil disturbance associated with the construction of a road or track within 20 metres of a culvert or bridge provided for in Rules 4.2.8.1, 4.2.8.2, 4.2.9.1, 4.2.9.2 and 4.2.9.3;
  - i. Shall not occur adjacent to Significant Indigenous Fisheries and Fish Habitat Class waters during August to December inclusive and Significant Trout Fisheries and Trout Habitat class waters during May to September inclusive; and
  - ii. Shall be stabilised against erosion by vegetative cover or other methods as soon as practical following completion of the activity and no later than two months from the date of disturbance to avoid the adverse effects of sediment on water bodies; and
  - iii. The location of the proposed soil disturbance shall be notified to the Waikato Regional Council in writing at least 10 working days prior to commencing construction.

#### Advisory Note:

- Where a waahi tapu site is identified whilst undertaking the activity, the process that Waikato Regional Council will follow in order to implement condition/standard and term j) is set out in Section 2.3.4.22 of this Plan.
- Where a structure or activity is to be located in, on, under or over the bed of a water body that is Significant Geothermal Feature, Rules 7.6.6.1 to 7.6.6.3 shall apply. Significant Geothermal Features are defined in the Glossary, and in Development and Limited Development Geothermal Systems, identified on maps in Section 7.10 of this Plan.

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