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Committee Te Upoko Taiao - Natural Resource Plan Committee
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Soil plan review

1. Purpose

To provide the Committee with information on the review of soil provisions in Greater Wellington's regional plans.

2. Background

The two main issues for soils in the region, identified in the proposed regional policy statement and regional plans, are:

- preventing soil erosion (this includes soil disturbances, vegetation disturbance, plantation forestry and earthworks that can lead to increased sedimentation of waterways)
- maintaining soil health (this includes land practices that lead to a deterioration in soil quality, and contaminated land)

Refer to **Attachment 1** for a copy of relevant provisions from the proposed regional policy statement and regional plans that pertain to soils.

2.1 Effectiveness reports

Effectiveness reports for Greater Wellington's regional plans were presented to the Committee at its March 2010 meeting, see **Attachment 2**. Of the reports into the effectiveness of regional planning two, covering the regional soil plan and the regional plan for discharges to land, are pertinent to soils management.

2.1.1 Regional soil plan effectiveness report

In summary, the regional soil plan effectiveness review found that the policies and methods have led to the uptake of sustainable practices and improvements to erodible land in the region. However, it appears that almost all of the rules would benefit from at least minor changes to make them more efficient and effective in meeting the regional soil plan objectives.

2.1.2 Regional plan for discharges to land

In general, the review of the regional plan for discharges to land found that the Plan provisions were working well, but again almost all the rules would benefit from at least minor changes to improve the Plans effectiveness.

2.2 Proposed Regional Policy Statement

The proposed regional policy statement has seven policies which cover a range of soils management issues. These are policies 14, 40 (minimising the effects of earthworks), 33 (contaminated land), 48 (sites of significance spiritual and cultural value), 59 (class 1 and 2 soils), 68 (minimising future soil erosion) and 69 (promotion and encouragement of sustainable agricultural practices). These policies will be implemented via council support – information, advice and assistance.

2.3 Role of district and regional councils under the RMA

Section 30(c)(i) of the Resource Management Act provides for regional councils to control the use of land for soil conservation purposes. Regional councils have controls over the use of land that may induce soil erosion, for example vegetation clearance and large scale soil disturbance on steep land. Section (ca) of the Resource Management Act requires regional councils to control the use of land for the purposes of identifying and monitoring contaminated land.

District councils control the use of land but are not specifically required to control soil. District councils must also prevent any adverse effects of the development, subdivision, or use of contaminated land. This requirement assists to prevent land (and soils) becoming further contaminated and reducing life supporting capacity.

The proposed national environmental standard for contaminated land has implications for the management of contaminated land for district plans. The proposed standard has rules governing the activities and use of contaminated land where activities may affect human health. The standard does not cover effects on the wider environment. Regional council plans will need to maintain their role for contaminated land with provisions to protect the effects from activities on and from contaminated land.

3. What other councils are doing

3.1.1 Horizons Regional Council

Soil erosion has been identified as an important issue in the hill country areas of the Horizons region, where it is noted that areas of land are currently farmed unsustainably. Activities such as vehicles on beaches and tracking are causing accelerated erosion in some coastal areas, particularly those areas prone to erosion from the wind. Poorly controlled earthworks within urban areas where a major cause of sediment entering urban waterways.

The policy and planning response to soil erosion of Horizons Regional Council is contained in the proposed 'One Plan'. A part of the overall response has

been an initiative to use whole farm business plans (a work plan or farm plan lodged with Horizons Regional Council) to act as a record of; future planting for erosion control, proposed future tracking, proposed vegetation clearance, and monitoring and reporting requirements.

In addition to policies and Other Methods there are rules to control soil erosion in vulnerable catchments. These rules target vegetation clearance, land disturbance and production forestry. The rules are site specific and their implementation relies on detailed data and site measurement combined with local knowledge and the experiences of staff. The rules for vegetation clearance and land disturbance are more stringent for activities near waterways and the coastal marine area.

3.1.2 Hawke's Bay Regional Council

The policy and planning responses to soil erosion of Hawke's Bay Regional Council are similar to those of Horizons Regional Council. The Hawke's Bay Regional Resource Management Plan combines the issues of accelerated hill country erosion, wind erosion and degradation of soil health with in a single topic. There are two objectives relating to soil management.

- Avoidance of the loss of soil by controlling erosion.
- Maintenance of the productive capacity of the region's soils

The plan relies largely on non-regulatory processes and landowners taking responsibility for their activities on the land, under section 17 of the Resource Management Act. Policies promote non-regulatory activities to achieve the objectives relating to soil management including, education, economic incentives and problem solving for wind erosion and vegetation clearance.

There is one permitted activity rule. It states that where the clearance of vegetation or the disturbance of soil increases the risk of soil loss, the land shall be:

1. Re-vegetated as soon as practicable after completion of the activity, but in any event no later than 18 months with species providing equivalent or better land stabilisation; or
2. Retained in a manner which inhibits soil loss.

Hawke's Bay Regional Council has recently joined the Hill Country Erosion Fund. The fund will be administered by MAF. The fund provides resources to allow local farmers to approach other farmers in three vulnerable districts to discuss issues about soil erosion and to share information about lasting solutions. The regional council wants the Hill Country Erosion Fund to cover wider issues of farm sustainability and the resilience of their businesses, in addition to soil erosion.

3.1.3 Taranaki Regional council

Taranaki Regional council's soil plan is similar in many respects to the Greater Wellington regional soil plan, with provisions for vegetation clearance on erosion-prone land.

The main issue identified in the soil plan of the Taranaki region is accelerated erosion in farmed hill country. The plan has policies and methods to deal with hill country erosion and progress to date suggests that the plan's objectives, policies and methods have been largely effective in managing erosion. Taranaki Regional Council monitored the effectiveness of the plan through a series of studies and trials. Overall the council considers that the plan is largely effective and is achieving the outcomes sought.

3.1.4 Environment Canterbury and Auckland Regional Council

Environment Canterbury and Auckland Regional Council both have well developed management systems for contaminated sites. They have extensive documentation to assist people and developers with contaminated land. The information is available on their websites that sets out clearly what needs to be done if a site is likely to be contaminated, which is more than what the Resource Management Act requires.

Auckland Regional Council uses the two plans to manage soil erosion and discharges to land. For the management of contaminated land five permitted activity rules to manage trenching, potentially contaminated land used for non-primary production, low risk activities, petroleum tank removals and remediation of contaminated sites. The standards are complex and require a certain degree of technical understanding. The conditions all rely upon the operator following guidelines appropriately. There are two controlled and one restricted discretionary rules for those situations that exceed the permitted activity standards.

Environment Canterbury has two rules for contaminated land. There is a permitted activity rule to control the removal of all underground tanks including tanks used for the storage of petroleum. The second rule is a permitted activity rule with conditions requiring operators to contact the council on the progress of site investigations according to the Ministry guidelines. If these conditions are not met, the rule is discretionary

Both Environment Canterbury and Auckland Regional Council have a rule for petroleum tank removal. This rule is sought by councils as it provides a necessary trigger for when tanks are removed. The 'Oil Companies' also have their own code of practice for tank removal.

4. Approaches available

4.1 Regulatory

The existing Greater Wellington regional soil plan has four rules to control soil erosion, the most extensive regulatory regime for soil erosion of any regional council. The four rules are:

- Rule 1 controls earthworks that may cause soil erosion during the construction and maintenance of roads and tracks on all types of land. These activities are not covered by rules in district plans. The rule has specific relevance to forestry operations in the eastern Wairarapa
- Rule 2 has a threshold limit of 1000 cubic metres of soil within an area of one hectare on erosion prone land. This rule controls earthworks on erosion prone land that would also not necessarily be controlled by district plans
- Rules 3 and 4 control vegetation disturbance on erosion prone land, which includes vegetation cleared for farming purposes, and small scale forestry and plantation forestry

The regional soil plan rules have received varying levels of acceptance - all rules for example have a numerical trigger which can be easily countered. However, in the instances where the rules have been applied this has resulted in controls being placed on the activity to protect soils and reduce the loss of sediment to waterways that may not have necessarily occurred.

Horizons Regional Council, Taranaki Regional Council and Hawke's Bay Regional Council do not have strong regulatory regimes to control soil erosion or vegetation clearance. At most there are permitted activity rules to control vegetation removal on erosion prone land. Horizon's Regional Council has the largest suite of rules covering soil erosion in the immediate area – the 'One Plan' is however only at the hearing stage and therefore subject to change.

For contaminated land most regional councils (Environment Canterbury, Auckland Regional Council, and Environment Waikato) have at least one permitted activity rule for activities on or around contaminated land. Two of the largest councils cover tank removal. The Greater Wellington discharges to land plan has two rules to control on-site and off-site (although not specifically tank removal) discharges from contaminated land. The national environmental standard will not affect regional council functions with respect to contaminated land therefore the regional plans will have the only controls to protect the environment.

4.2 Non-regulatory

Most regional council have non-regulatory programmes to remedy soil erosion and soil health issues. Hawke's Bay Regional Council, Taranaki Regional Council and Horizons Regional Council all provide non-regulatory soil conservation measures including pole plantings, advice and education to remedy and mitigate soil erosion on farms. These programmes have proved effective in mitigating soil erosion and building rapport with local farming communities. Greater Wellington provides a similar programme for soil erosion, targeting the eastern Wairarapa hill country.

Activities associated with plantation forestry, such as harvesting close to waterways or where the underlying geology is made up of soft sediments are well accepted as having the potential to result in sedimentation and soil

erosion. Greater Wellington promotes compliance with the industry code of practice for harvesting and provides advice on best practice techniques, including riparian plantings, through rules 3 and 4 of the regional soil plan. However, there have been documented breaches of the code of practice by logging companies which have resulted in discharges to waterways. Most of the recorded breaches have all been in the western part of the region.

In the urban environment, earthworks for small subdivisions and sometimes large roading projects are controlled by district plans. In a number of incidents this has proven to be problematic, as earthworks operations have resulted in discharges of sediment to waterways. As a response, Greater Wellington prepared the erosion and sediment control guidelines and a programme of education and advice for councils and contractors called 'Muddy Waters'. This has been effective in building up knowledge and expertise in the local construction industry as to the best ways to mitigate sediment discharges to waterways.

4.3 Combination of both regulatory and non-regulatory

Greater Wellington and other regional councils have for many years use both a regulatory and non-regulatory approaches to manage soil erosion and maintain soil health. Overall this appears combination of tools appears to be an effective model for achieving plan objectives. The regulatory regimes associated with soil management are minimal compared to the regulations for freshwater or coastal activities. Non-regulatory programmes and adherence to industry codes of practice have proven popular with applicant and council alike. These programmes have made some advances in the way people address soil erosion and soil health issues.

5. Where to from here?

Notwithstanding the community workshops that have just begun, the proposed regional policy statement, effectiveness reports on the regional plans, and what other councils are doing does indicate a direction for soils:

- The proposed Regional Policy Statement has regulatory (policies 14, 33, 40, 48 and 59) and non-regulatory policies (policies 68 and 69) that guide regional and district plans, which must have provisions for soil erosion and off-site effects of sedimentation to waterways and supports non-regulatory programmes and industry codes of practice in managing soils.
- The reports on the effectiveness of regional plans show that the rules are working but that some minor changes would make them more workable in practice. The non-regulatory methods have made a large impact in the way these resources are managed and the work has built strong relationships with major soil stakeholders, in particular farmers and earthwork contractors.
- The proposed national environmental standard for contaminated land will control the way contaminated land is managed by district plans. The

standard ignores the effects on the environment which must be taken-up by regional councils in regional plans.

6. Recommendations

That the Committee:

1. ***Receives the report.***
2. ***Notes the content of the report.***

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Attachment 1: Relevant provisions from the proposed Regional Policy Statement

Attachment 2: Report 10.94