

**BEFORE THE COMMISSIONERS
AT HAMILTON**

IN THE MATTER

of the Resource Management Act 1991
(**"the Act"**)

AND

IN THE MATTER

of the hearing of submissions on The
Proposed Waikato Regional Plan Change
1 – Waikato and Waipa River
Catchments: Block 2

LEGAL SUBMISSIONS FOR HORTICULTURE NEW ZEALAND

3 JULY 2019



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INTRODUCTION AND BACKGROUND

1. The purpose of these submissions is to provide a high level summary for the presentation of the case for Horticulture New Zealand (**HortNZ**) in relation to Block 2.
2. In its evidence HortNZ has provided commentary on the Officer's s42A Report and the likely implications for commercial vegetable production. As this will be the focus in Block 3 it will be developed further at that time. The intention here is to set the scene in Block 2 and provide the foundation for HortNZ's issues in Block 3.
3. In essence the position is that PC1 as amended by the s42A report recommendations in Blocks 1 and 2 does not provide an appropriate regulatory pathway for commercial vegetable production in the region.
4. As set out in the summary section of Ms Sands' evidence the case for HortNZ is that an exception for increased commercial vegetable production is justified for the following reasons:
 - (a) Commercial vegetable production is a regionally significant industry. Providing locally grown fresh vegetables to meet food demand will afford a number of social and economic benefits of regional and national scale;
 - (b) A limited increase in commercial vegetable production, aligns with the Vision and Strategy and the concept of Te Mana o te Wai. In particular, by sustaining a healthy community, restoring and protecting water quality in relevant catchments through off-setting between contaminants and negligible cumulative effects;
 - (c) The holistic nature of the Vision and Strategy and the concept of Te Mana o Te Wai highlights the need for balanced decision-making when considering trade-offs between healthy waters, healthy environments and healthy communities;
 - (d) An increase in commercial vegetable production aligns with PC1's Cultivation and Primary Production Value;

- (e) HortNZ is concerned that the non-complying activity rule still applies to increases in commercial vegetable production and any support for the policy framework in Block 2 is dependent on the outcomes of Block 3 hearings;
- (f) HortNZ deems Rule 3.11.5.2 as being applicable to fruit production, although queries the 20ha threshold and exclusion of enterprises.

EVIDENCE

- 5. Horticulture NZ has filed evidence from the following experts:
 - (a) Michelle Sands – which provides the background to the industry including the important of commercial vegetable growing both regionally and nationally;
 - (b) Andrew Barber - regarding farming management and the importance of cooperative good management practice;
 - (c) Damien Farrelly, regarding Certified Sector Schemes and Farm Environment Plans;
 - (d) Gillian Holmes, regarding the impact of providing or an increase in commercial vegetable production in the region on water quality;
 - (e) Chris Keenan, regarding the policy support for providing for limited opportunities for an increase in commercial vegetable growing in the region; and
 - (f) Vance Hodgson who considers the planning framework and the changes required to address the issues raised in the evidence.

KEY ISSUE

- 6. The key issue is that Plan Change 1, as it is currently, does not provide for a reasonable pathway for the increase in commercial vegetable production required to meet the future demand.
- 7. Generally the plan change (including the proposals in Block 3) does provide a reasonable pathway for existing vegetable production to continue. It is the growth of this activity that is not provided for because the plan change imposes what is, in essence, a moratorium on land use change.

WHAT HORTNZ IS SEEKING AT THIS POINT IN THE PROCESS

8. As noted in the evidence (particularly that of Mr Hodgson) it has been a little difficult to recommend specific changes to the policy framework covered in Block 2 in the absence of seeing where matters land in Block 3 (noting that the section 42A report for Block 3 is now available). Mr Hodgson is largely supportive of where the Officers' have got to in the section 42A and his position is set out in his summary statement (paragraphs [4] and [5]) as:

In my opinion, PC1 rightly provides a tailored planning response to ensure domestic food supply is secured for current and future generations. This is reflected in the as notified controlled activity status for existing commercial vegetable production that protects the existing footprint of activity and guarantees consent approval.

Notwithstanding this, I consider the framework of PC1 could be improved by explicitly recognising the food production values associated with horticulture and other methods could be provided that enable the continuation of existing horticultural activity and provide for growth.

9. Mr Hodgson will be able to update you at the hearing post his review of the Block 3 section 42A report.

TECHNICAL SUPPORT FOR THE HORTNZ POSITION

10. The Block 2 evidence in chief and rebuttal has been produced to provide the technical support for the position of HortNZ that allowing for an exception for commercial vegetable production which will allow for an appropriate increase in that activity is not inconsistent with the policy framework that under-pins PC1.
11. The key elements of HortNZ case are:
- (a) An increase in commercial vegetable production is required in order to meet the increase in domestic food demand anticipated as a result of projected population growth.
 - (b) The ability to increase commercial vegetable production is limited by diminishing availability of suitable land, ie LUC 1 – 2, with a temperate climate and access to high quality water, key transport routes and labour.

- (c) In the Waikato and Waipa Catchments, there is likely to be less than 15.9% of LUC 1-2 land available and suitable for new commercial vegetable production.
 - (d) A limited increase in commercial vegetable production has negligible cumulative effects and can improve water quality in some catchments by allowing off-setting between contaminants.
 - (e) Exceptions within PC1 have been recommended by the Officers' for land subject to Policy 16 and point-source discharges associated with regionally significant industries.
 - (f) HortNZ believes an exception for increased commercial vegetable production is justified for the following reasons:
 - i. Commercial vegetable production is a regionally significant industry. Providing locally grown fresh vegetables to meet food demand will afford a number of social and economic benefits of regional and national scale; and
 - ii. A limited increase in commercial vegetable production, aligns with the Vision and Strategy and the concept of Te Mana o te Wai. In particular, by sustaining a healthy community, restoring and protecting water quality in relevant catchments through off-setting between contaminants and negligible cumulative effects.
12. It is HortNZ's position that the holistic nature of the Vision and Strategy and the concept of Te Mana o Te Wai highlights the need for balanced decision-making when considering trade-offs between healthy waters, healthy environments and healthy communities. An increase in commercial vegetable production aligns with PC1's Cultivation and Primary Production Value.
13. HortNZ will further address this in relation to the specific policies and methods applying to commercial vegetable production in Block 3.
14. I now want to summarise a few of the key points made in the evidence in support of HortNZ's position

TOTAL REDUCTION OF CONTAMINANTS

15. As described in Ms. Sands' evidence the section 42A report recommendations signal a clear shift in position from "managing and reducing" contaminants to direct reduction and for there to be no increase for all contaminants.¹ This poses some particular challenges for commercial vegetable production. The Officers acknowledge this in Block 2 and further consider it in Block 3 but do not land on a solution.
16. The evidence from Ms Holmes is that, while increased commercial vegetable production will result in some small increases in nitrogen, it will also provide considerable improvements in other contaminants such as E coli.² It is Ms Holmes' evidence that consideration of the cumulative effects of the activity makes the limited increase in nitrogen an appropriate exception.³
17. This position is further addressed in the evidence of Mr Keenan where he notes that an increase in nitrogen discharges made at the property or enterprise level would not necessarily result in any material increase in catchment scale discharges.⁴
18. In short, HortNZ is saying that providing an exception to allow for limited expansion of commercial vegetable production will not result in adverse environmental effects on the catchments of concern.

LIMITED LAND SPACE

19. As noted above Ms Sands evidence is that land available for commercial vegetable production is limited due to a number of factors.⁵ With much of the appropriate land being rezoned for urban development it is the position of HortNZ that some new land must be made available for commercial vegetable production to meet the increasing demand.
20. In reviewing the PC1 catchments and suitable land for commercial vegetable production, Ms. Holmes finds that there are many catchments in the Waikato and Waipa catchments that have LUC 1 and 2 land currently not utilised

¹ Michelle Sands EIC at [52]

² Gillian Holmes EIC at [4]

³ Ibid at [38]

⁴ Chris Keenan EIC at [33]

⁵ Michelle Sands EIC at [18]

for such production, which could be utilised in the future if the planning framework allowed.

21. Ms Sands' notes that the potential alternatives to making more land available for commercial vegetable production include, increasing intensification on existing land or cultivating lower quality land. She notes that both options would have various substantial adverse effects, including increased nitrogen leeching and a greater risk of not meeting demands for food production.⁶
22. It is therefore the case for HortNZ that limited suitable land does exist within the catchments suitable for commercial vegetable production and providing new limited opportunities is to be preferred over intensification of existing land or using less suitable land.

DEVELOPMENT AND IMPLEMENTATION OF GOOD AGRICULTURAL PRACTICE

23. HortNZ submits that Farm Environment Plans (**FEPs**) are a key method to guide the implementation of a range of farm-specific actions to reduce contaminant losses.
24. Evidence from Mr Barber supports FEPs being flexible, developed cooperatively and in consideration of cumulative aspects.⁷ This specifically requires the development of the fundamental bases of FEPs such as Good Management Practices, Erosion and Sediment Control Guidelines, and coordinated drainage networks.
25. Mr Barber submits that the best approach for affecting change is to achieve recognition of the problem, then cooperatively develop a solution, disseminate that information and then allow sufficient time for the practices to be implemented before finally following up with enforcement where changes are not occurring.⁸
26. Flexibility is built from the outcome-based Sediment and Erosion Control Plans. This ensures that what is implemented is fit for purpose.⁹

⁶ Michelle Sands EIC at [45].

⁷ Andrew Barber at [18].

⁸ Ibid at [24].

⁹ Ibid at [21].

27. Evidence from Damien Farrelly also describes the importance of Good Agricultural Practice schemes being flexible, independently audited, and self-managed. This evidence supports the development of an audit and assurance framework to monitor the implementation of good practice, but recommends that PC1 allows for the recognition of rules and audit processes in existing industry assurance schemes.¹⁰
28. Growers operate independently of each other so flexibility is essential.¹¹ This is also a key driver in the need for FEPs to be developed by the farmer/grower or with the help of an appropriate advisor.
29. A risk-based auditing schedule is supported by Mr. Farrelly, rather than blanket annual audits. The certification of advisors is also found to be unnecessary due to the outcomes-focused FEPs which will ensure consistency.
30. Mr Farrelly's evidence also supports the approach that FEPs be self-managed, as the quality of FEPs and implementation of Good Farming Practice as well as reduction in loss of contaminants is monitored/verified via the FEP audit.¹²
31. Both Mr Barber and Mr Farrelly will return to this matter in Block 3.

OVERSEER APPLICATION

32. Evidence from Mr Ford raises serious doubts about Overseer's ability to accurately predict the performance commercial vegetable production in terms of both nitrogen and phosphorus leaching¹³. Officers appear to accept this position and more is covered on this in Block 3.
33. It is HortNZ's position that Overseer is not reliable at the farm property scale and cannot be used for farm level limit setting. Even though Overseer can be used to develop proxy rotations for catchment limit setting, APSIM is a much better tool for developing proxy rotations for catchment scale limit setting.
34. The doubts about Overseer arise due to the inability to review the accuracy of the programme, crude modelling of

¹⁰ Damien Farrelly EIC at [26]

¹¹ Ibid at [29]

¹² Ibid at [38]

¹³ Stuart Ford EIC - summary

phosphorus, large timeframes for data input, incomplete crop models, and the long-term average based modelling.

35. HortNZ favours a modular modelling system such as APSIM is proposed. The flexibility of a modular model allows for much more accurate predictions of the performance of a sector.
36. HortNZ submits that the better option is to implement a definition of the factors that should be considered in choosing an appropriate decision support tool, rather than specifying one particular tool.

CONCLUDING COMMENTS

37. In conclusion, HortNZ is pleased with the direction that PC1 is heading for existing commercial vegetable production and fruit production - as noted in its evidence. However, more is needed to allow for essential growth in production. HortNZ will present more details around this in its evidence for Block 3 – due this week.

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