

**BEFORE THE HEARING 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

**PRIMARY STATEMENT OF EVIDENCE BY DAMIEN FARRELLY
FOR HORTICULTURE NEW ZEALAND**

3 MAY 2019

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SUMMARY STATEMENT

1. This industry scheme evidence addresses the Horticulture New Zealand (“**HortNZ**”) submission, further submissions and the Waikato Regional Council’s (“**WRC**”) Section 42A Report responses to the submissions on the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (“**PC1**”).
2. This evidence supports the provision of Certified Sector Schemes as a pathway for growers/farmers to demonstrate compliance with PC1 requirements for audited Farm Environment Plans (“**FEP**”).
3. I have reservations about a number of the proposed requirements for Certified Sector Schemes (S42A Report, Appendix C, Schedule 2).
4. I recommend that the development, implementation and monitoring of FEPs and environmental actions is detached from the consenting process, amendments and compliance monitoring.

QUALIFICATIONS AND EXPERIENCE

5. My full name is Damien John Farrelly. I am the New Zealand Good Agricultural Practice (“**NZGAP**”) Manager at HortNZ, and have three and a half years of experience in the development and implementation of GAP standards in New Zealand horticulture.
6. I have primary responsibility for development, acceptance and implementation of the NZGAP Environment Management System (“**EMS**”) add-on which provides growers with a pathway to demonstrate compliance with regional council requirements for independently audited FEPs.
7. I have previously worked as the Quality Systems Manager for NZGAP where I developed extensive knowledge in relevant regional and central government policy, FEPs, Environmental compliance and quality systems for Environment, Food Safety, and Social Practice.
8. I have a BE in and PhD in Biosystems Engineering, where I specialised in environmental science and the biological mitigation of carbon dioxide emissions from point sources.

CODE OF CONDUCT

9. While this is not a hearing before the Environment Court, I can confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court and have prepared my evidence in accordance with those rules. My

qualifications as an expert are set out above. While I am an employee of HortNZ I am have been employed as an expert in my field. I am not an advocate for the positions adopted by HortNZ rather I support those positions from my position as an expert.

10. I confirm that the issues addressed in this brief of evidence are within my area of expertise.
11. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

12. This evidence is to support the submission by HortNZ that PC1 should recognise existing industry assurance schemes (Certified Sector Scheme).
13. I support adoption of the qualitative approach of audited FEPs as a pathway to achieve reductions in contaminant losses rather than a Nutrient Reference Point (S42A Report, C1.3).
14. I support the Section 42A (paragraph 362) adoption of Good Farm Principles (“**GFP**”) to help simplify Schedule 1 which could then prescribe appropriate agreed minimum standards which are consistent across the country
15. I do not support the proposal that any members of a Certified Sector Scheme will default to Restricted Discretionary Consent (instead of the current Permitted Activity rule). Consenting of an activity should be based on the effects of that activity rather than the pathway by which a grower/farmer elects to demonstrate compliance with PC1 requirements for audited FEPs.
16. I consider that growers/farmers should not be expected to benchmark their FEP to the GFP, but instead this benchmarking should be built into council approved FEP templates.

CERTIFIED SECTOR SCHEMES – GOOD AGRICULTURAL PRACTICE SCHEMES

17. Good Agricultural Practice (“**GAP**”) schemes are independently audited self-management assurance programmes which provide a pathway for members to demonstrate compliance with regulatory and market requirements via 3rd party audit of recognised standards (e.g. Food Act 2014).
18. The role of GAP schemes is to set and/or adopt standards and to provide a pathway for members to demonstrate compliance with those standards (i.e. via 3rd party audit).

19. GAP standards in NZ horticulture are benchmarked to internationally recognised standards including GLOBALG.A.P. Integrated Farm Assurance standard version 5.2.
20. GAP schemes are outcomes focused and operate within a risk-based integrated quality systems approach.
21. All certified growers are independently audited by the Joint Accreditation System of Australia and New Zealand (“**JAS-ANZ**”) accredited Independent Verification Agencies (Certification Bodies), and they must continuously meet requirements of GAP standards to maintain certification (Figure 1).
22. The GAP audit identifies any issues in an FEP as well as robustness of relevant components (e.g. nutrient management plan), therefore using the outcomes approach and focus, there is less emphasis required on the qualifications of persons preparing FEPs (e.g. Certified Farm Environment Plan Adviser). I do not consider that it is sensible to require Certified Farm Environment Nutrient Advisers and Certified Farm Environment Plan Advisers in addition to the existing requirement for a highly credible FEP assurance system and audit process.
23. I disagree with the officers’ position that the certification of advisers is necessary to provide consistency across the board (s42A, Report at paragraph [647]). The audit of advisers is excessive and further complicates the process while also undermining the credibility of the advisor certification programme. The outcomes focus of audited FEPs verifies that relevant standards are met and consistency is achieved in environmental outcomes between farms.
24. I do not support the amendments to criteria for Certified Farm Nutrient Advisers (S42A Report, Addition to Glossary of Terms) which require persons to have completed an advanced nutrient management course and have 2 years of experience in nutrient management planning, as well as being certified under the Nutrient Management Adviser Certification Programme. The course content is not relevant to horticulture, and the model and processes utilised in the course (OVERSEER) do not appropriately or accurately measure the contamination losses from horticulture operations (especially commercial vegetable rotations)¹.
25. I also envisage that there will be a capability deficiency and major supply shortage of appropriately qualified persons, as already seen in other regions with comparatively low-level requirements for qualifications and experience of Nutrient Management Advisers.

¹ Issues relating to Overseer are outlined in the evidence of Mr Stuart Ford.

26. I support the development of a default audit and assurance framework to monitor the implementation of GFP, but recommends that PC1 allows for the recognition of rules and audit processes in existing industry assurance schemes.
27. By way of illustration of this, Environment Canterbury has developed rules and an audit manual for council auditors, but has also recognised industry developed schemes with a credible governance, rules, assurance framework, auditors and audit processes. Currently, the only approved schemes in Canterbury are NZGAP and Synlait Lead with Pride.
28. In my opinion, there is potential for confusion over the definition and role of a Certified Sector Scheme (e.g. GAP) (S42A Report, section C3 and Appendix C, Schedule 2). In New Zealand's horticulture industry GAP schemes set/adopt standards and operate under a credible assurance framework (Figure 1, see below) to provide members with a pathway to demonstrate compliance with those standards. GAP schemes do not operate like an industry group, catchment collective or scheme (e.g. irrigation scheme) as suggested in some terminology, with aim of becoming a consented activity, or supporting the development of FEPs.
29. Below is an overview of my expert opinion on recommendations in the S42A Report relating to Appendix C Schedule 2: Certified Sector Schemes/ Te Āpitihanga 2 – Te whakamana i ngā tohu o ngā Kaupapa Ahumahi.
 - A. Governance and Management: growers operate as individuals independent of each other under GAP schemes, so description of scheme area, land uses, environmental issues and ownership of members is inappropriate (4,5).
 - B. Preparation of FEPs: As outlined previously, it should not be the role of Certified Sector Schemes to prepare and certify FEPs, nor do Certified Sector Schemes have mandate to prescribe timelines for growers to develop FEPs. The timeline requirement should be driven by the regulator, and FEPs may be developed by a farmer/grower or with the help of an appropriate adviser.
 - C. Implementation of FEPs: I agree with the proposals in this section.
 - D. Audit: I propose that audit frequency of the Certified Sector Scheme may be adopted as this includes a risk-based approach to scheduling of audits, therefore a blanket rule of annual audits is inappropriate. A requirement for annual audits also contradicts the recommendations for audit

frequency in Rob Dragten's report (S42A) which depends on the audit grade achieved. Performance against agreed actions may occur at enterprise/consented activity level, therefore default of property level seems inappropriate. Sharing of audit results requires clarification (what/how), and HortNZ recommends that environmental outcomes and/or progress towards GMP are reported instead. The definition and content of "summary audit report" requires more detail/clarification.

30. I support adoption of the qualitative approach of audited FEPs as a pathway to achieve reductions in contaminant losses rather than a Nutrient Reference Point (S42A Report, C1.3). That support is dependent on acceptance on Certified Sector Schemes as a pathway for growers to demonstrate compliance with FEP requirements. That support is also dependent on appropriate outcomes from Block 3 relating to requirements for Certified Nutrient Advisers and Certified FEP advisers.
31. I do not support the proposed approach in the Section 42A Report for FEPs² where it is suggested that farmers benchmark their farm against the 21 industry-agreed GFPs, as this alignment should be built into the FEP template (Example: Canterbury PC5 Regional Guide for NZGAP EMS add-on). Once built into the FEP, compliance (Yes/No/Non-applicable) with relevant GFPs can then be assessed via the FEP audit.
32. I support the Section 42A Report's adoption at paragraph [362] of GFP to help simplify Schedule 1 which could then prescribe appropriate agreed minimum standards which are consistent across the country. Compliance with minimum standards could be reported to WRC via the FEP audit process, rather than reporting specific actions undertaken at a farm-by-farm basis. Progress on implementation of FEP actions is monitored via the FEP audit, therefore submitting these to WRC would be duplication of compliance monitoring. HortNZ acknowledges and supports the recommended change of terminology to amend the name of "Certified Industry Scheme" to "Certified Sector Scheme (s42A Report at paragraphs [782](1) and [841]).
33. I support the concept of Certified Sector Schemes for supporting and monitoring the implementing of FEPs (s42A Report C3). The legal basis for approval of schemes is the rules and assurance framework which credible schemes (e.g. GAP) operate under

² Section 2, ii of *As an approach to reducing contaminant losses from farms in the Waikato and WAipa catchment under PPC1* by Rob Dragten Consulting 2018.

(Figure 1, see below), and the process of acceptance by the council (e.g. Environment Canterbury).

34. I do not support the requirement for independent audit of the performance of Certified Sector Schemes in preparing and monitoring the implementation of FEPs for its members. Adequate oversight of GAP audits and the Independent Verification Agencies is already built into the existing assurance framework via the JAS-ANZ.
35. I do not support amending Rules 3.11.5.3 and 3.11.5.4, such that farming under a Certified Sector Scheme will not be a permitted activity. The pathway by which a property or enterprise demonstrates compliance with FEPs should not be a trigger for consent.
36. I recommend that consent type is based on the activity and/or environmental effects rather than the compliance pathway elected to meet requirements for audited FEPs (e.g. Certified Sector Scheme). It is not appropriate that a permitted activity (e.g. low intensity) would default to discretionary activity status because of joining a Certified Sector Scheme. All consent types (e.g. permitted, controlled, discretionary activities etc.) could simultaneously exist in a Certified Sector Scheme, as the FEP only monitors the assurance system and progress on good environmental outcomes via audit of FEP and action plan. This may place submitter issues on a level playing field for those in scheme vs those not in a scheme.
37. I do not support the proposal that it is the Certified Sector Scheme's responsibility to support the development of FEPs (S42A Report at paragraph [816], Schedule 2B). GAP schemes are threshold standards which focus on outcomes. Members can develop their system themselves, or with assistance of an adviser, while the GAP audit monitors compliance with these standards (e.g. FEPs). Membership is dependent on meeting these standards. Membership is suspended, and ultimately cancelled if compliance cannot be achieved and verified.
38. I support the approach that growers/farmers should be able to prepare their own FEPs (S42A, Report at paragraph [368]), as the quality of FEPs and implementation of GFP as well as reduction in loss of contaminants is monitored/verified via the FEP audit.
39. GAP schemes operate using threshold level compliance with relevant standards (Yes/No/Non-applicable) so a member is either compliant or non-compliant with a standard. The Level of Confidence approach proposed in Rob Dragten's report (audited FEPs) is subjective and open to interpretation, therefore is not a true audit/inspection approach.

40. I do not support the proposed rules/triggers for audit of FEPs in Rob Dragten's report (audited FEPs). Similar to the risk-based approach to managing loss of contaminants, GAP Schemes operate under rules which adopt a targeted approach to audit frequency based on member compliance with GAP standards. Blanket rules on audit frequency (e.g. annual) are therefore inappropriate.
41. I acknowledge the practical difficulties with the current PC1 FEP framework (S42A Report at paragraph [360]) where FEP actions are currently proposed to link to both the consent and FEP audit. This is impractical as it reduces flexibility and the ability for farmers/growers to act, as any change to FEP actions currently triggers an application for change to consent. Fundamentally this approach is also duplication of compliance, as both FEP auditors and compliance officers will be checking/monitoring FEP actions.
42. I recommend that development and monitoring of a FEP and making/demonstrating progress towards GMP (FEP action plan) is separate from the consenting of an activity. The high-level requirement for growers/farmers to develop and implement an FEP which is independently audited is however an appropriate component of the consenting process.

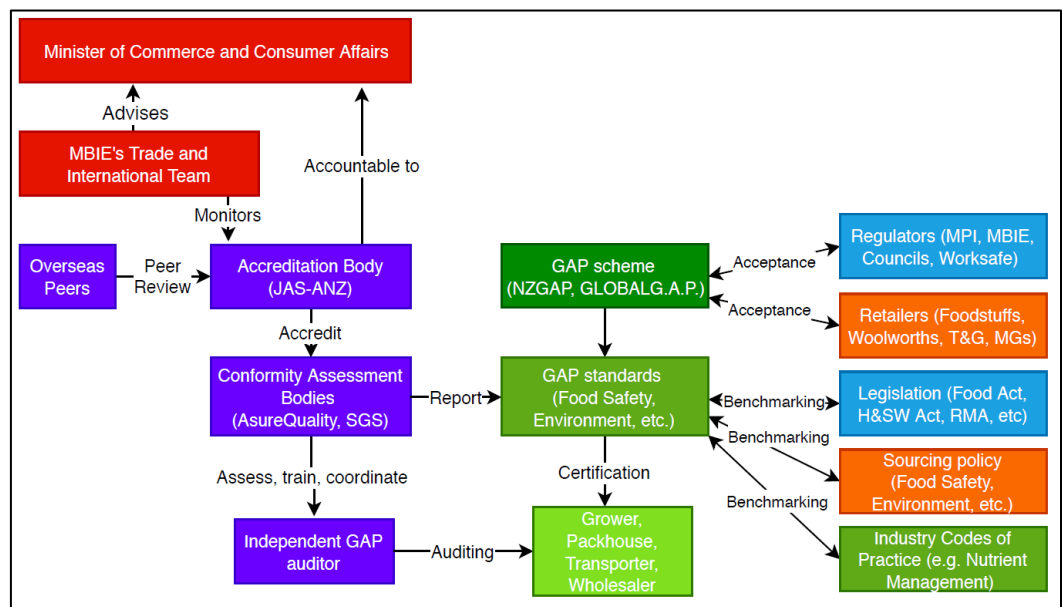


Fig 1: New Zealand Conformance Infrastructure for GAP certification

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