

**COMMENTS ON REGION-WIDE WATER
QUANTITY - PROPOSED PLAN CHANGE 9 TO
THE BAY OF PLENTY REGIONAL WATER AND
LAND PLAN**



TO: Bay of Plenty Regional Council

COMMENTS ON: Proposed Plan Change 9 to the BOP Regional Water and Land Plan

NAME: Horticulture New Zealand (HortNZ), NZ Kiwifruit Growers Ltd., Avocado Industry Council, Katikati Fruitgrowers Inc. and Te Puke Fruitgrowers Assn. (HortNZ & Orrs).

ADDRESS: PO Box 10 232
WELLINGTON

1. HortNZ's submission, and the decisions sought, are detailed in the attached schedules:

Schedule One:	Take and Use of Surface and Groundwater
Schedule Two:	Issues
Schedule Three:	Objectives
Schedule Four:	Policies
Schedule Five:	Methods of Implementation
Schedule Six:	Take and Use Water - Rules
Schedule Seven:	Definition of Terms
Schedule Eight:	Reasonable and Efficient Use Criteria

2. HortNZ wishes to be heard in support of this submission.

3. Background to HortNZ and its RMA involvement:

3.1 Horticulture New Zealand (HortNZ) was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers' and New Zealand Fruitgrowers' and New Zealand Berryfruit Growers' Federations.

3.2 On behalf of its 5,500 active grower members HortNZ takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. HortNZ works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that HortNZ considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act;
- Non-regulatory methods should be employed by councils;

- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
 - Early consultation of land users in plan preparation; and
 - Ensuring that RMA plans work in the growers' interests both in an environmental and sustainable economic production sense.
- 3.3 Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications.
- 3.4 HortNZ represent growers in Bay of Plenty alongside key affiliates to HortNZ including NZ Kiwifruit Growers Ltd., Avocado Industry Council, Katikati Fruitgrowers Inc. and Te Puke Fruitgrowers Assn. Growers produce a diverse range of crops – Kiwifruit is the most predominant crop in this region although other crops such as Avocados, Citrus and Berryfruit also feature in the region. Their interests are reflected in the preparation of this submission.
- 3.5 Freshwater management is of crucial importance to the horticultural sector. Without water, rural land cannot support high value rural production. The value of rural production to the region is recognised through the Bay of Plenty Regional Policy Statement ('RPS') with an objective and policy support to sustain and grow production as follows:

Objective 26, The productive potential of the region's rural land resource is sustained and the growth and efficient operation of rural production activities are provided for.

Policy UG18B, Managing rural development and protecting versatile land.

Policy UG23B, Providing for the operation and growth of rural production activities.

Policy WQ 6B, Ensuring water availability.

- 3.6 The RPS approach to freshwater management is led by Objective 30 and the relevant policies as follows:

Objective 30, The quantity of available water:

- (a) provides for a range of uses and values;*
- (b) is allocated and used efficiently;*
- (c) safeguards the mauri and life supporting capacity of water bodies;*
- and*
- (d) meets the reasonably foreseeable needs of future generations.*

Policy WQ 1A: Promoting efficient water use, water harvesting and water transfers

Policy WQ 2A: Setting and applying instream flows and allocation limits for taking freshwater

Policy WQ 3B: Allocating water

Policy WQ 4B: Establishing common review dates for the taking of water

Policy WQ 5B: Reviewing resource consents for the taking of water

Policy WQ 6B: Ensuring water availability

Policy WQ 7B: Reducing water demand

Policy WQ 8B: Managing consented water takes to ensure efficient use

- 3.7 HortNZ and Others as stated above (Orrs) was a partner through the development of the RPS and advocated for the development of a rural advisory panel to assist Council and the community with identification and resolution of resource management issues. This became a method included in the RPS.

Method 40: Promote the development of a rural advisory panel

- 3.8 As a supporter of the RPS, HortNZ has been actively involved in the Rural Water Advisory Panel for the Bay of Plenty alongside NZKGI representative Ross Bawden. There have also been other meetings with Council regarding management of the unauthorised takes and other plan changes. Horticulture New Zealand has had most of its recent discussions with growers and the Council regarding the development of Proposed Plan Change 9 ('PC9'). Throughout the various steps as the plan change progressed, HortNZ has provided feedback to Council. HortNZ commends Council on the collaborative process to develop PC9 and recognises the substantive amount of work that has been undertaken to develop the plan change to the draft stage and then to notification. HortNZ looks forward to ongoing work with Council in implementing a plan for freshwater management in the Bay of Plenty.

Angela Halliday
Manager – Natural Resources and Environment
HortNZ

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Address for service:

Angela Halliday
Manager – Natural Resources and Environment
Horticulture New Zealand
PO Box 10-232
WELLINGTON

Tel: 64 4 472 3795
DDI: 64 4 470 5664
Fax: 64 4 471 2861
Mob: 027 947 3344
Email: angela.halliday@hortnz.co.nz

SCHEDULE ONE: Take and Use of Surface and Groundwater

4.1 HortNZ supports the introductory paragraphs that lead in to the issue statements for the take and use of surface water and ground water. There is support for a plan that sets a platform to guide the development of sub-regional plans where freshwater objectives and limits are set for Water Management Areas.

4.2 Earlier drafts of the plan included an additional paragraph that set out the issue of unauthorised takes and the plans approach to deal with them which was as follows:

Due to a variety of reasons, a number of water users are dependent on water takes for which they lack the appropriate authorisation. A time limited opportunity has been given to aid the transition of these existing unauthorised water users to compliance through a more permissive consenting framework than may otherwise apply. This opportunity has been provided to:

- *Assist the Regional Council in obtaining accurate information on the scope of existing water takes*
- *Ensure that the take and use is efficient*
- *Recognise existing levels of investment and contribution to the economic and social wellbeing of the region dependant on the taking of water for agricultural and horticultural purposes*

Existing unauthorised irrigation and frost protection takes will need to demonstrate that they are not having unacceptable adverse effects.

4.3 This text was not included in the notified plan but methods remain to facilitate unauthorised water users into a consenting framework. One method that set out to consent unauthorised irrigation and frost protection takes was not included in the draft. However, due to a Council and horticultural industry joint programme to address this matter, the issue has largely been resolved. HortNZ remains supportive of a planning approach that ensures consented takes have priority over unauthorised users and the text is now largely redundant for that sector.

4.4 While recognising that this is an introductory section to the plan, in not including the above text, there is now no reference to the dependency of the region on the taking of water for agricultural and horticultural purposes for its economic and social wellbeing, despite *Food Cultivation and Processing* being the highest priority area of focus for regional economic development under the Regional Economic Development Strategy.

4.5 Earlier feedback from HortNZ & Orrs suggested that this introduction should acknowledge that key activities in the region require a reliable and secure access to water, acknowledge the competition for water between municipal water supply, industrial and rural activities and other users and the need to decide how much water is available for these differing users and how water is to be allocated. On reflection HortNZ considers this is sufficiently addressed in Section 2.10 of the RPS and need not be replicated here. However, what is required is clear recognition and provision of the water needs of rural production

through the issue statements and into the regional plans objectives, policies and methods.

Decision sought:

- 4.6 Retain introduction to the Take and Use of Surface Water and Groundwater as notified.

SCHEDULE TWO: Issues

WQ I3

- 5.1 WQ I3 states that *“the inefficient allocation and use of water can significantly reduce the overall benefits to be derived from the use of the resource.”*
- 5.2 The issue statement then goes on to describe two examples of inefficient allocation:
- 1) Other potential water abstractors may be excluded where a water body is fully allocated, but actual water use is lower than the volume consented by water permit. i.e. paper allocation prohibits other potential users accessing unused water.
 - 2) Where a greater volume of water is taken than is actually required or when an activity wastes water.
- 5.3 The statement is supported but it is important to distinguish between paper allocation based on inadequate information on need or the resource at the time that consent was granted and allocation to provide for activity growth. Actual use should be tested against reasonable use. Paper allocation may be more than what is currently used to provide for scheduled growth in the business or to allow for elevated abstraction as a crop grows through to maturity.
- 5.4 The issue statement would be improved through identifying that inefficient allocation and use can occur where a plan provides no clear priority for particular activities during water use restrictions. An example is where domestic and municipal supply has an unbundled priority and breweries, tanneries, bakeries and car washing yards all receive the same priority under water restrictions as do the needs of hospitals, schools, homes and places of public assembly. This can be extended further to where the activities listed above or other urban industries have priority over rural food production only because they are connected to a municipal supply.
- 5.5 This matter should be developed in the issue statement and provide a linkage to WQ P31 where the value of water for crop and rootstock survival water is recognised as an efficient allocation and use.

Decision sought:

- 5.6 Amend WQ I3 as follows:

The inefficient allocation and use of water can significantly reduce the overall benefits to be derived from the use of the resource.

Other potential water abstractors may be excluded where a water body is fully allocated, but actual water use is lower than the volume consented by water permits. Inefficient water use also occurs where a greater volume of water is taken than is actually required through the lifecycle of the activity or when an activity wastes water. Inefficient allocation and use can occur where a plan provides no clear priority for particular activities during water use restrictions and no distinction is made for activities where water use is essential for business continuity.

WQ 17

- 5.7 The intent of issue statement WQ 17 is supported by HortNZ. Importantly it recognises the need for robust information with HortNZ an advocate for the development of a sophisticated water balance model.
- 5.8 Information gathering, research and monitoring will be important for informing the regions response to climate change. The plan would be improved by making an explicit statement on this in WQ 17. The plan would be improved through making an issue statement on climate change.

Decision sought:

- 5.9 Amend WQ 17 as follows:

The effective management of water allocation and use relies on the availability of good quality information.

The Council requires robust information on both the amount of available water and the amount being taken to effectively make decisions around the management of rivers, streams and aquifers. This includes understanding the values and interests associated with freshwater bodies, access to scientific information and mātauranga Māori.

Research and monitoring is to be undertaken to develop a good understanding of the freshwater resources, location of future demand, values, significance, potential stressors and impacts of climate change in the Region to better inform freshwater management.

WQ 18

- 5.10 WQ 18 is supported but is noted to be the only issue statement that is not problem focused.
- 5.11 The RPS has clarified that the national values of mahi mara / cultivation are particularly relevant to the Region with RPS Policy WQ 6B requiring water to be available for rural production. These values are further support by the Regional Economic Development Strategy and yet this value not mentioned in the issue statements. Ecological values, landscape values, recreational values, tangata whenua values are noted but nothing on mahi mara / cultivation.
- 5.12 The methods support rural production but the plan would be improved with expanding WQ 18.

Decision sought:

- 5.13 Expand WQ 18 as follows:

The ability to provide for the growing social and economic needs of people is dependent on water being available.

Key social and economic activities in the region require reliable and secure access to water.

The community has placed particular value on water to support food cultivation and processing and a means to realising the region's economic potential and improving the wellbeing of communities.

SCHEDULE THREE: Objectives

WQ O8

- 6.1 The objectives are generally supported by HortNZ; however, it is noted that freshwater needs of the rural production sector are not specifically referenced.
- 6.2 The needs of hydroelectric power schemes are recognised through WQ O2.
- 6.3 The social benefits for domestic, marae, or municipal water supply, including in particular essential drinking and sanitation requirements are recognised in WQ O8.
- 6.4 All other activity needs are addressed in wider objective references however the plan would be improved by amending WQ O8 to specifically reference to the sector the council have identified as key to the regions prosperity in its economic development strategy and supported through RPS policy.
- 6.5 Most the consents issued under the methods proposed in this plan change will be to rural production activities. These consents are issued because of the social and economic benefits derived. In not identifying the activity in the objectives, this leaves a gap between the higher order RPS policy and the methods that support rural production.

Decision sought:

- 6.7 *Amend WQ O8 as follows:*

Decision-making and allocation of freshwater water resources in the Bay of Plenty recognises the:

(a) Social benefits from the use of water for domestic, marae, or municipal water supply, including in particular essential drinking and sanitation requirements.

(b) Social, economic and cultural benefits that existing water takes contribute, which is often associated with significant investment.

(c) Social, economic and cultural benefits that new water takes can provide.

(d) The particular value the community has placed on water to support food cultivation and processing.

WQ O11

- 6.8 The intent of objective WQ O11 is supported by HortNZ. Importantly it addresses an issue set out in Section 2.10 of the RPS where climate change is recognised as likely to put more pressure on water resources. Water harvesting, transfer of permits, storage and managed aquifer recharge are methods being implemented around the country to improve water management and to respond or prepare for climate change. The plan would be improved through making a link to an issue statement in the regional plan on this matter.
- 6.9 The objective looks to enable the methods listed above where there is a water shortage. A more proactive approach would look to encourage this to occur as

a method to future proof activities and encourages investment and commitment to rural production. The Managed Aquifer Recharge project in Gisborne is an example where the community is proactively looking to address a potential water shortage issue that will arise in 50 years.

Decision sought:

6.10 Amend WQ O11 as follows:

~~Where water shortage is a significant problem~~ Potential solutions are explored so the allocation and use of water is improved over time by enabling:

- (a) Water storage and managed aquifer recharge.
- (b) The transfer of water take consents.
- (c) Water harvesting

6.11 The plan would be improved through making a link to an issue statement in the regional plan on climate change as recommended in 5.9 above.

SCHEDULE FOUR: Policies

Water Management Areas

WQ P2

- 7.1 HortNZ supports the initiation of a collective review of resource consents (WQ P2(m)) especially in the circumstances of over allocation being determined. This approach is consistent with Policies WQ 4B and WQ 5B of the RPS.

Decision sought:

- 7.2 Retain WQ P2.

Existing over allocation

WQ P3

- 7.3 HortNZ supports the phase out of overallocation and a collaborative process to achieve this but does not support the date specified. It is difficult to determine an appropriate date given there will be differing effects in different water management areas. HortNZ would support a phase out date being set in the subregional processes and policy to require this.

- 7.4 It is important to consider Policy CA2(f) of the National Objectives Framework set out in The National Policy Statement for Freshwater Management (2014). CA2(f) states that the following matters are to be considered in the development of freshwater objectives for all freshwater management units:

- v. *any implications for resource users, people and communities arising from the freshwater objectives and associated limits including implications for actions, investments, ongoing management changes and any social, cultural or economic implications;*
- vi. *the timeframes required for achieving the freshwater objectives, including the ability of regional councils to set long timeframes for achieving targets; and*

- 7.5 A fixed date of 1 October 2027 for all overallocated water management areas does not provide for a subregional response that reflects the environment and issues of overallocation in that area and the implications of timeframes.

Decision sought:

- 7.6 Amend WQ P3 as follows:

*Take steps to phase out over-allocation, where applicable, ~~by 1 October 2027,~~
by:*

(a) Encouraging voluntary reductions in allocation.

(b) Reviewing resource consents to determine reasonable and efficient use requirements and whether any efficiency gains can be made, including through altering the volume, rate or timing of take.

(c) Rostering users or reducing the rate of take.

(d) Encouraging the establishment of water user groups and voluntary agreements between water users, provided that does not enable an increase in the actual volume of water abstracted.

(e) Directing applicants to consider alternative sources including water harvesting, storage or roof water.

(f) Shared reduction applied to all users of the water resource, including permitted activity volumes via a plan change.

(d) Setting timeframes in subregional plans within which over-allocation is to be phased out.

Setting limits, managing allocation and providing for flow variability

WQ P5

7.7 The interim allocation thresholds set out WQ P5 are supported, in particular the use of Q₅ 7 day low flow.

7.8 It is noted that WQ P5 uses the term interim allocation limit when we would suggest the term threshold is more appropriate on the basis that limits are being set in the subregional plans and PC9 does not defend limits through a non-complying or prohibited activity status.

Decision sought:

7.9 Amend WQ P5 as follows:

To use the following interim allocation ~~limits~~ thresholds, until permanent limits are set through regional and/or sub-regional plans within each WMA:

(a) Instream flows: 90% of Q5 7 day low flow for each river or stream.

(b) Allocation ~~limit~~ threshold for surface water: 10% of Q5 7 day low flow for each river or stream. (c) Allocation ~~limit~~ threshold for groundwater: 35% of the long-term average annual recharge for each aquifer.

Advice Note: Information on the assessment of the ~~limits~~ thresholds and current allocation status is available at Council's offices and on its website

WQ P6

7.10 HortNZ supports a specific policy to provide for the harvesting of water during periods of high river or streamflow. The policy provides the connection to higher order regional policy including Section 2.10 of the RPS.

7.11 An appropriate method that has been used before is 10% of the median flow being made available as a harvesting flow. – Horizons and Waikato Regional Councils are examples of where this method is used.

Decision sought:

7.11 Retain WQ P6.

WQ P8

- 7.12 HortNZ supports a specific policy to provide for second tier lower reliability takes. The proposed policy provides a clear framework and parameter within which these takes are to be considered.

Decision sought:

- 7.13 Retain WQ P8.

Consent processing

WQ P10

- 7.14 HortNZ supports the clear policy direction which provides the opportunity for an effects-based assessment for any application to take and use surface water or groundwater, where the water resource is allocated above the limits identified in, WQ P5.

Decision sought:

- 7.15 Retain WQ P10.

WQ P11

- 7.16 HortNZ supports the requirement to demonstrate reasonable and efficient use for an application to take and use surface water or groundwater that will not result in the total allocation exceeding the interim limits identified in WQ P5.

Decision sought:

- 7.17 Retain WQ P11.

WQ P12

- 7.18 A clear priority to existing users of freshwater through consent renewals and in assessing the effects of new takes on existing users is supported.
- 7.19 For clarity the policy should specify that an existing user is one authorised at the date of plan notification.
- 7.20 The submitter queries the relevance of the criteria specified by WQ P9 to the consideration of whether to grant consent to an application. WQ P9 is a policy related to the integrated management of groundwater and surface water resources and does not as such specify clear criteria for an applicant to meet.

Decision sought:

- 7.21 Amend WQ P12 as follows:

To recognise and provide certainty to existing authorised users of freshwater, including non-consumptive users, by:

(a) Ensuring that any new allocation of water does not adversely impact upon the use of existing resource consents.

(b) Giving priority to existing users (authorised on 18 October 2016) over new users when considering the renewal of existing resource consents, or any process taken to phase out overallocation in accordance with giving effect to Objective B2 of the National Policy Statement for Freshwater Management 2014.

~~*(c) Considering granting an application that meets the criteria specified by WQ P9 where limits have not been set under WQ P2(f).*~~

WQ P13

- 7.22 Support policy to promote the efficient use of freshwater resources and the methods set out in Policy WQ P13.

Decision sought:

- 7.23 Retain WQ P13.

WQ P14

- 7.24 HortNZ had previously flagged some risks associated with this type of an approach and the uncertainty of the number (likely high) of unconsented takes. There is the potential to make overallocation matters worse particularly when you apply a controlled activity status of this authorisation and the more restrictive nature of water transfer. However, given the progress achieved between Council and industry groups to move unauthorised takes into a consenting regime, the policy is supported. Existing authorised users of freshwater (authorised on 18 October 2016) must retain a priority on review of allocations in a subregion over these newly consented takes.

Decision sought:

- 7.25 Retain WQ P14.

WQ P15

- 7.26 HortNZ supports two key matters to be given regard to in when considering any application for resource consent to take and use water,

(d) The relative social and economic benefits of the proposed use of the water.

(e) The value of investment that existing consent holders have made which depend on the water abstracted.

- 7.27 Both are critical considerations for takes that support horticultural activities.

Decision sought:

- 7.28 Retain WQ P15.

WQ P16

- 7.29 Policy WQ P16 that provides for circumstantial discretion when setting resource consent conditions is supported. HortNZ has previously expressed a lack of confidence by growers on how a maximum seasonal allocation for irrigation

and frost protection based on estimated crop water requirements is calculated. However, working with the sector should ensure accuracy in need is established.

Decision sought:

7.30 Retain WQ P16.

WQ P17

7.31 Policy WQ P17 sets out a duration of the consent that is consistent with Policy WQ 8B(i) of the RPS.

Decision sought:

7.32 Retain WQ P17.

Importance of domestic, marae and municipal water supply

WQ P21

7.33 HortNZ does not support the bundling of domestic and municipal water supply. There is a need to recognise that water is not essential for all municipal supplies. Nor is this priority provided for in the RPS. There is also an issue in providing a blanket priority for municipal across all catchments in the region. The requirement that all applications to take water for municipal water supply to provide a water management plan is supported.

Decision sought:

7.34 Amend Policy WQ P21 as follows:

To recognise the essential nature of domestic, marae and essential drinking and sanitation water supply requirements when allocating water and to require all applications to take water for municipal water supply to provide a water management plan in accordance with the requirements of Schedule 7.

Transfer of water permits

WQ P23

7.35 The policy framework to be considered when an application to transfer a water permit is received is supported.

Decision sought:

7.36 Retain WQ P23.

Water metering, reporting and accounting

WQ P24

7.37 Horticulture New Zealand supports the introduction of a measuring/reporting provision for all consented takes. Supporting a more robust recording and reporting approach to freshwater management in Bay of Plenty, there must

more robust measurements of flow rates and determining base flows for water bodies across the region. Without this, limit setting is not informed by the best available information.

- 7.38 HortNZ queries the reference in WQ P24 to “an over allocated water body” and how overallocation is determined. Is it over allocation determined through a subregional limit setting plan change or an interim threshold.

Decision sought:

- 7.39 Amend WQ P24 to clarify the reference to over-allocation in WQ P24 and how this is determined.

Ensuring and enhancing water availability

WQ P28

- 7.40 The policy to promote and help investigate enhanced water availability options, including water harvesting, water storage and managed aquifer recharge that provide for the social, economic or cultural well-being of communities is supported.

Decision sought:

- 7.41 Retain WQ P28.

Low flows and aquifer levels

WQ P30

- 7.42 The actions set out in WQ P30 to be undertaken during times of low water flows or aquifer levels are supported.

Decision sought:

- 7.43 Retain WQ P30.

WQ P31

- 7.44 The provision of crop and rootstock survival water during times of low water flows or aquifer levels is supported. However, the priority afforded to all municipal supply and end users is not supported. It is inefficient to be providing a priority to municipal supply without control over the end use during times of shortage.
- 7.45 The value of water for cultivation in the Bay of Plenty is well recognised. The significant economic impact of rationing is not disputed. The provision of crop and rootstock survival water in times of drought (fettered by rationing and subject to s329) is a sound resource management response.
- 7.46 The case for crop and rootstock survival water is well established around New Zealand. There are choices available for the other uses (and economic impacts) including at the extreme:

- In the case of pastoral production sourcing animal feed from offsite,

- Closing sports fields, parks, pools,
- Moving nursery plants to another location,
- Not watering the garden/washing cars or boats from municipal supply

7.47 There are no alternative for crops or rootstock. Without water they will die.

Decision sought:

7.48 Retaining the provision of crop and rootstock survival water during times of low water flows or aquifer levels.

7.49 Amend Policy WQ P31 as follows:

To give priority to water abstraction for the following uses during times of low water flows or aquifer levels:

(a) Essential domestic drinking and sanitation requirements.

(b) Reasonable animal drinking and sanitation needs.

(c) Non-consumptive takes, provided that the discharge from a dam/impoundment is equal to the inflow.

(d) Municipal water supplies, subject to the requirements of the Water Management Plan prepared in accordance with Schedule 7 and where strategies are in place to separate the allocation and use of water for domestic (drinking or sanitation purposes) from other municipal users.

(e) Crop and rootstock survival water.

Advice Note: This above list is not in order of priority. If a water shortage direction is issued under section 329 of the Act, it is expected that all water users will reduce the volume of their takes.

SCHEDULE FIVE: Methods of Implementation

WQ M2

- 8.1 HortNZ supports the Councils proactive approach to the provision of information and advice for potential water users within fully allocated resources regarding alternatives such as accessing lower reliability water (2nd tier surface water); harvesting of high flow surface water or accessing groundwater.

Decision sought:

- 8.2 Retain WQ M2.

WQ M3

- 8.3 The methods to be encouraged through WQ M3 across Councils and all sectors are supported.

Decision sought:

- 8.4 Retain WQ M3.

WQ M4

- 8.5 The methods to be encouraged through WQ M4 to identify, evaluate and enhance water availability are supported.

Decision sought:

- 8.6 Retain WQ M4.

WQ M5

- 8.7 Metering of all users should be a requirement and we note the success of the Kapiti District Council with metering introduced in 2014 resulting in a 25 percent reduction in peak day use. Individual water storage and reuse of non-potable water should be encouraged.

Decision sought:

- 8.8 Retain WQ M5.

WQ M9

- 8.9 HortNZ is supportive of the involvement of iwi and hapu in water resource decisions. However, significant concerns have been raised recently by growers about the effect of councils requiring cultural impact assessments (CIA) for consent applications.

In some instances, the CIA requirements are effectively amounting to an opportunity for veto. There have been significant delays in response to requests for input from mana whenua agencies for consent applicants in some cases.

Growers have also been asked to resolve effects beyond the ambit of the consent at times. There have also been some instances of potential commercial

conflicts that have arisen in the consenting process. These include incidents where:

- (a) Growers have been asked to support related consents for subdivision and water requirements for that subdivision
- (b) Growers have been asked to delay obtaining a consent until another application has been submitted and accepted
- (c) Growers have been asked to amend environmental effects not related to the purpose of the consent or the infrastructure.

To ensure that the process is clear and transparent for all parties HortNZ requests the following:

- (a) A specified period in which mana whenua agencies can provide input.
- (b) A restriction on the effects that can be sought to be mitigated, to matters directly related to the consent.
- (c) Clarification of cost structures for cultural impact assessment.
- (d) Clarity around how conflicts of interest will be addressed.

HortNZ considers that further direction needs to be provided on these matters so that all parties are clear on roles and to ensure the long term acceptability and durability of any such processes.

Decision sought:

8.10 Amend WQ M9 as follows:

Recognise:

(a) The value of involving iwi and hapu to identify the extent of cultural impacts associated with resource consent applications to take water.

(b) The value of iwi and hapū management plans to articulate issues of significance to tāngata whenua.

(c) The role of specialists in mātauranga and tikanga, such as kaumātua and pūkenga, in resource management decisions where tāngata whenua values are affected.

(d) Iwi, hapu, Council, the community and industry groups to develop a Cultural Values/Impact Assessment process that sets out:

- i. A specified period in which mana whenua agencies can provide input.*
- ii. A restriction on the effects that can be sought to be mitigated, to matters directly related to the consent.*
- iii. Clarification of cost structures for cultural impact assessment.*
- iv. Clarity around how conflicts of interest will be addressed.*

Advice Note: WQ M9(c) supports the preparation of Cultural Values/Impact Assessments as well as the use of Hearing Commissioners who have a strong background and understanding of mātauranga and tikanga.

SCHEDULE SIX: Take and Use Water - Rules

WQ R1 Permitted Activity – Take and Use of Groundwater

- 9.1 HortNZ supports a permitted activity allocation for take and use of groundwater where the property size is less than 5 hectares and the quantity of water taken does not exceed 15 cubic metres per day per property, subject to the specified conditions.

Decision sought:

- 9.2 Retain WQ R1.

WQ R2 Permitted Activity – Take and Use of Groundwater

- 9.3 HortNZ supports a permitted activity allocation for take and use of groundwater where the property size is equal or greater than 5 hectares and the quantity of water taken does not exceed 35 cubic metres per day per property, subject to the specified conditions.

Decision sought:

- 9.4 Retain WQ R2.

WQ R3 Permitted Activity – Take and Use of Surface Water

- 9.5 HortNZ supports a permitted activity allocation for take and use of surface water where the quantity taken does not exceed 15 cubic metres per day per property, subject to the specified conditions.
- 9.6 Recognition in the Explanation / Intent of the Rule that 15 cubic metres per day is a reasonable amount for small uses, such as wash-down and milk cooling for small dairy sheds, small glasshouse operations, horticultural spray makeup, or irrigation of gardens (up to approximately 0.5 hectares), is also supported.

Decision sought:

- 9.7 Retain WQ R3.

WQ R4 Controlled Activity – Take and Use of Water for Existing Dairy Shed Wash Down and Milk Cooling Purposes

- 9.8 WQ R4 sets out a controlled activity framework to consent existing unconsented takes (surface or ground water) for dairy shed wash down and milk cooling. Resource consent application is to be lodged within 12 months of this rule becoming operative.
- 9.9 It is noted that earlier drafts of PC9 identified as an Advice Note that the efficient use of water is 70 litres per cow per day. PC9 as notified now suggests this should be 55 litres per cow per day. The science and evidence behind this allocation and subsequent reduction is not known however it is assumed to be robust enough to support the allocation as a performance standard rather than an advice note.

Decision sought:

9.9 Amend WQ R4 as follows:

Controlled Activity – Take and Use of Water for Existing Dairy Shed Wash Down and Milk Cooling Purposes

The take and use of surface water and/or groundwater for the purposes of dairy shed washdown and milk cooling is a Controlled Activity that does not require notification, subject to the following:

- 1 The take and use is not permitted by a rule in this regional plan.
- 2 The take and use is not prohibited by Rule 49.
- 3 A resource consent application is lodged within 12 months of this rule becoming operative.
- 4 The application information contains verifiable evidence of the existence of the take at the time of notification of this plan change, including but not limited to: (i) Any consent to discharge dairy shed effluent; and (ii) Evidence of the presence of a water pump on the property and the volume and rate is proven to be the same or less than that occurring as at 18 October 2016.
- 5 The take and use of surface water and/or groundwater for the purposes of dairy shed washdown and milk cooling shall not exceed 55 litres per cow per day.

Bay of Plenty Regional Council reserves its control over the following matters:

- (a) Rate and volume of take.
- (b) Measures to restrict or stop the take during periods of low flow or to enable flow monitoring by Council.
- (c) Metering and reporting requirements, including separate metering of any water taken under provisions of section 14(3)(b) of the Act.
- (d) Measures to achieve efficient use of water.

Advice Note:

- 1 This rule does not enable an additional volume to be added to an existing resource consent or permitted activity relating to the take and use of water on the same property.
- 2 No pump testing or ecological assessment is required.
- 3 The rate of take maybe reduced to the minimum required to achieve the daily volume. Storage maybe needed to enable higher rates of use.
- ~~4 Efficient use of water is 55 litres per cow per day.~~

WQ R5 Controlled Activity – Take and Use of Groundwater

- 9.10 WQ R5 sets out a controlled activity framework to take and use up to 35m³ of groundwater. Again, this relates to an existing take and resource consent application is to be lodged within 12 months of this rule becoming operative. The purpose of the rule is not clear and it is assumed that the take should only relate to properties less than 5 hectares in size. The criteria should provide for situations where a user was consented to discharge by resource consent or where this was previously a permitted activity. Matters of Control should be extended to effects on other authorised takes. How an existing unauthorised take confirms it has no effect without undertaking a pump test is not known.

Decision sought:

9.11 Amend WQ R5 as follows:

Controlled Activity – Take and Use of Groundwater

The take and use of groundwater is a Controlled Activity where the property size is less than 5 hectares ~~that~~ and does not require notification, subject to the following:

- 1 The total daily volume of take does not exceed 35 cubic metres per property.*
- 2 The take and use is not permitted by a rule in this regional plan.*
- 3 The take and use is not prohibited by Rule 49.*
- 4 A resource consent application is lodged within 12 months of this rule becoming operative.*
- 5 The application includes verifiable evidence of the existence of the take as at 18 October 2016, including but not limited to:
 - (i) Any ~~resource consent~~ authorisation to discharge the volume of water sought; and*
 - (ii) Evidence of the presence of a water pump on the property and the volume and rate is proven to be the same or less than that occurring as at 18 October 2016.**

Bay of Plenty Regional Council reserves its control over the following matters:

- (a) Rate and volume of take.*
- (b) Measures to restrict or stop the take to enable monitoring by Council.*
- (c) The restriction or cessation of the takes at times of low aquifer levels.*
- (d) Metering and reporting requirements, including separate metering of any water taken under provisions of section 14(3)(b) of the Act.*
- (e) Measures to achieve the efficient use of water.*
- (f) Effects on other users.*

Advice Note:

- 1 This rule does not enable an additional volume to be added to an existing resource consent or permitted activity relating to the take and use of water on the same property.*
- ~~2 No pump testing or ecological assessment is required.~~*

WQ R6 Controlled Activity – Take and Use of Water for Existing Municipal Water Supplies

- 9.12 The submitter supports the requirement that a take under this rule is subject to a Water Management Plan, which meets the requirements outlined in Schedule 7.
- 9.13 The submitter supports the control matter (e) in Rule WQ R6 “*the availability of reliability of supply for existing users*”. As above this should be replicated in WQ R5.
- 9.14 Renewal of existing takes as a Controlled Activity must only consent the same volume. New takes should be considered as Discretionary Activities and importantly any priority (which should be limited to essential drinking and sanitation needs) must be determined by the community at a water management unit level. Priority in rural catchments should legitimately be for rural production activities.

Decision sought:

- 9.14 The Water Management Plan to require delineation and a specific water management response for essential and non-essential municipal users.

WQ R7 Permitted Activity – Temporary Transfer of Water Permits to Take and Use Water

- 9.15 The temporary transfer of water permits to take and use water as provided in WQ R7 through a permitted activity standard is supported.

Decision sought:

- 9.16 Retain WQ R7.

WQ R8 Controlled Activity – Transfer of Water Permits to Take and Use Water

- 9.17 The controlled activity status for the transfer of a resource consent to take or to use water, in whole or part, to another site is supported. This is an enabling framework that gives effect to the higher order policy and can achieve the efficient use of water.

Decision sought:

- 9.18 Retain WQ R8.

WQ R9 Restricted Discretionary Activity – Transfer of Water Permits to Take and Use Water

- 9.19 The restricted discretionary activity status for the transfer of a resource consent to take or to use water, in whole or part, to another site where that application does not meet the conditions of WQ R8 is supported. A restricted discretionary activity status provides an appropriate framework within which to consider these applications with specified matters of discretion that address the actual or potential effects on the environment.

Decision sought:

- 9.20 Retain WQ R9.

WQ R10 Restricted Discretionary Activity – Take and Use of Water

- 9.21 The overall restricted discretionary status for the take and use of surface water or groundwater that is not permitted elsewhere in the plan and is within interim limits is supported. A restricted discretionary activity status provides an appropriate framework within which to consider these applications with specified matters of discretion that address the actual or potential effects on the environment.

Decision sought:

- 9.22 Retain WQ R10.

WQ R11 Discretionary Activity – Take and Use of Water

9.23 The overall discretionary status for all other applications to take and use of surface water or groundwater is supported. The activity status provides for full consideration of the effects of the activity and the Objectives and Policies of the Plan.

Decision sought:

9.24 Retain WQ R11.

SCHEDULE SEVEN: Definition of Terms

Crop and rootstock survival water

- 10.1 The definition of crop and rootstock survival water is supported and reflects now adopted definitions that are being included in freshwater plans in other parts of New Zealand.

Decision sought:

- 10.2 Retain the definition of crop and rootstock survival water.

Municipal water supply

- 10.3 The definition of Municipal Water Supply identifies that it is a reticulated water supply provided by a territorial authority primarily to meet domestic, drinking water and public health requirements. The definition goes on to clarify that the supply may include industrial commercial and irrigation supplies. In effect the definition recognises the distinction HortNZ seeks to be recognised in the plans allocation priorities during water shortages.
- 10.4 Water is not always essential or an efficient allocation or use for all users connected to the municipal supply. The plan must unbundle the end use.

Decision sought:

- 10.5 Amend the definition of Municipal Water Supply to recognise that water is not always essential or an efficient allocation or use for all users connected to the municipal supply

SCHEDULE EIGHT: Reasonable and Efficient Use Criteria

Irrigation

11.1 The schedule is generally supported. However, there are no definitions for reasonable & efficient use given the “use it or lose it” philosophy. A definition of reasonable use is required that takes into account:

- a) the specified growth requirements of a business and
- b) the requirements of a crop through all phases of the life cycle.

Decision sought:

11.2 Amend Schedule 7 – Reasonable and Efficient Use Criteria as follows:

Irrigation

Use of a field validated model that considers land use, crop water use requirements, on site physical factors such as soil water holding capacity, and climatic factors such as rainfall variability and potential evapo-transpiration. The model must reliably predict annual irrigation volume within an accuracy of 15%.

The annual volume calculated using the model shall meet with the following criteria:

- (a) An irrigation application efficiency of 80%, and
- (b) Demand conditions that occur in nine out of 10 years.

When applied to the taking or using of water for irrigation, reasonable and efficient use means an assessment of water use in the particular circumstances of the activity, including consideration of the water requirements for the land use activity; whether there are already existing resource consents for the use of water for the same area of land, the specified growth requirements of a business and the requirements of a crop through all phases of the life cycle.

To avoid ‘water banking’, an implementation plan will be in place to demonstrate how full irrigation of their consented irrigation area will occur.

Municipal Water Supplies

11.3 Section 14(3)(b) of the RMA places a high priority on meeting the needs of communities for domestic supply. However, there is no justification to prioritise water supply to urban industries or commercial use over rural industries. The Schedule 7 Reasonable and Efficient Use Criteria fail to unbundle municipal and domestic needs.

11.4 The criteria lack a clear assessment of the freshwater needs of users that are not part of a municipal supply. The plans approach elevates a priority right for freshwater for commercial and industrial activities in the urban areas whether or not this is an efficient allocation or use. We are also aware of horticultural users connected to reticulated supplies. Recognition of their needs through (2.f) is supported, however based on this approach these growers would get priority over others not connected to a town supply. This does not give effect to the National Policy Statement for Freshwater Management 2011 or the Regional Policy Statement.

- 11.5 Horticulture New Zealand supports the Water Management Plan relating to reasonable and efficient use criteria and measures on how the water supplier will manage water used at times of water shortage. During times of water shortage it is imperative that enforceable steps are taken to prioritise sectors of municipal supply and reduce consumption for non-essential uses.

Decision sought:

- 11.6 Amend Schedule 7 Municipal water supplies criteria 2 as follows:

- 1 *A description of the water supply system including system operation, distribution extent, levels of service, water use measurement, maintenance and asset management procedures.*
- 2 *A comprehensive assessment of existing and future demands for water with regard to an assessment of reasonable population growth, economic drivers and climate change within the planning horizon to meet the following:*
 - a) *Reasonable domestic needs.*
 - b) *Public health needs in accordance with requirements under any Act of Parliament or regulation.*
 - c) *Reasonable community needs (e.g. for public amenities).*
 - d) *Reasonable commercial, rural supply and industrial needs.*
 -) The needs of other freshwater resource users in the region and impact on allocating water to domestic and municipal supply over other uses.*
 - e) *An assessment as to how each of the assessments required by clauses a) to d) above is predicted to vary over time.*
 - f) *A justification for each of the assessments required by clauses a) to e) above including reference to any relevant planning instruments promulgated under the Resource Management Act 1991 that provide for future growth or relevant documents promulgated under the Local Government Act 2002 such as long term plans, growth strategies, economic development strategies or spatial plans.*
- 3 *Any existing or proposed water pricing procedures, including the extent of metering of individual customers and any linkages with wastewater pricing or management.*
- 4 *How water reticulation networks are planned and managed to minimise their water losses as far as practicable, including leak/loss detection and repair and unauthorised use investigation.*
- 5 *A description of patterns of water use practices and/or behaviour in all sectors of use (and distribution) with the objective of maximising water use efficiency and reducing water use, as far as practicable.*
- 6 *Water saving targets for the full range of demand conditions including demand saving targets for council owned facilities, domestic demand targets and demand saving targets for commercial and industrial customers.*

- 7 Key performance indicators for each of the water saving targets.
- 8 Any external auditing and benchmarking procedures that have been adopted.
- 9 A drought management plan that includes:
(i) Steps to be taken to reduce consumption during water shortage conditions, including ensuring that uses not identified as priorities in Policy 80B are restricted to a similar extent to which that use would be restricted if it was not part of the municipal supply network.
(ii) Public and commercial user education programmes.
(iii) steps taken to reduce consumption when demand is approaching the maximum take volume specified under the relevant resource consent.
(iv) Enforcement procedures.
- 10 Actions, performance measures and a timeline for implementing actions. The actions and performance measures identified will depend on the circumstances of each applicant.
- 11 Any consultation undertaken with key stakeholders and outcomes of such consultation.
- 12 Details of an appropriate water conservation and demand management plan review process.
- 13 Identification of any anticipated increases in water demand over the term of the consent and ability to stage water take volumes to more closely reflect demand requirements over time.
- 14 Ability to reduce the amount of water used by existing industrial and agricultural users, as a result of improvements in the efficiency of the use of water, in order to meet any increase in water demand over the term of the consent.
- 15 Identification of any single industrial, commercial or agricultural use of water that uses more than 15 cubic metres of water per day (not being water used for human drinking or human sanitation purposes).
- 15A Strategies to separate the allocation and use of water for domestic (human drinking or human sanitation purposes) from other municipal users (industrial, commercial, agricultural). End users on the municipal supply should be defined and benchmarked to ensure the allocation and use is efficient. To support this water storage and reuse of non-potable water should be encouraged.
- 16 Identification of future domestic or municipal supply take needs over and above that already authorised.
- 17 Domestic or municipal supply takes required to meet growth and development that is provided for in planning instruments promulgated under the Resource Management Act 1991 or relevant documents promulgated under the Local Government Act 2002, such as Long Term Plans, growth strategies or spatial plans (or similar).

18 *The projected future needs shall be identified in terms of:*

(a) Location of take; and

(b) Volume of take (including any seasonal variations); and

(c) The date at which the water is likely to be required.