

SUBMISSION ON PROPOSED WAIKATO DISTRICT PLAN

TO: Waikato District Council

FROM: Horticulture New Zealand

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Wellington**

1. HORTICULTURE NEW ZEALAND

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

On behalf of its 5,600 active grower members Horticulture NZ undertakes detailed involvement in resource management planning processes as part of its National Environmental Policy. HortNZ also works to raise growers' awareness of the Resource Management Act 1991 ("**RMA**") to ensure effective grower involvement in planning processes and resource consent applications. The principles that HortNZ considers in assessing the implementation of the RMA include:

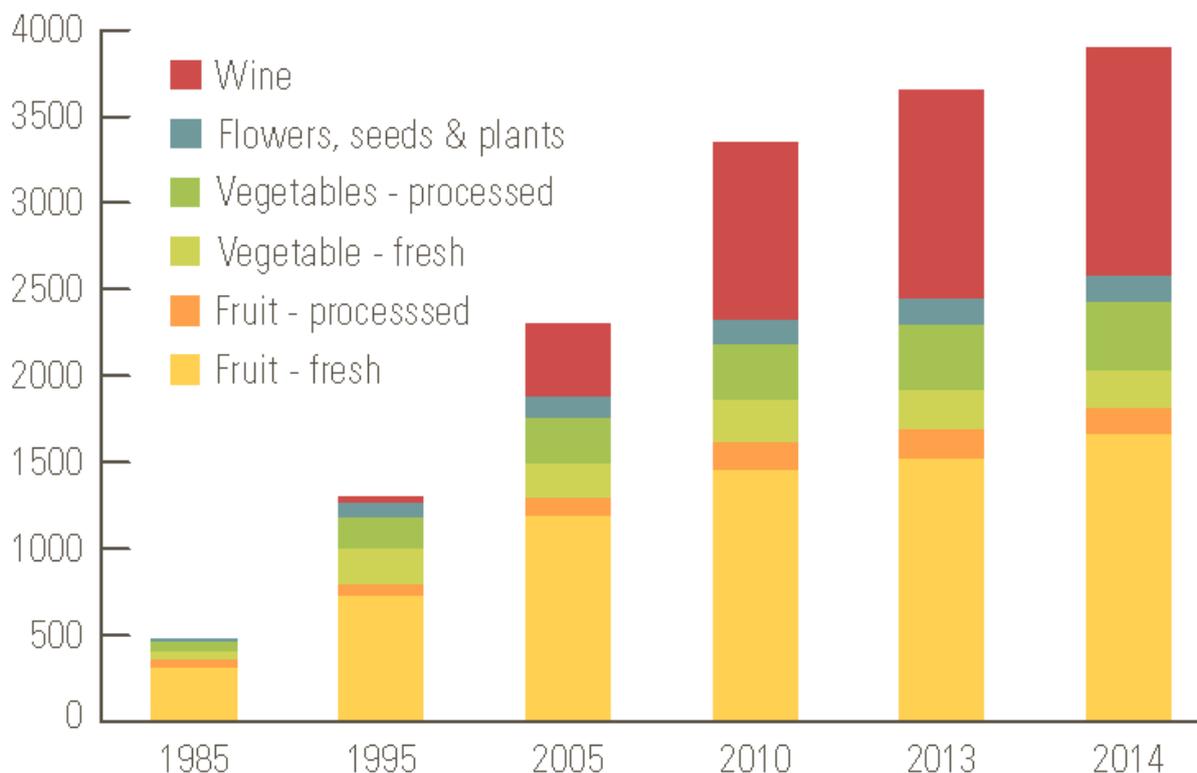
- (a) Science should underpin the basis of all advocacy;
- (b) The effects-based purpose of the RMA;
- (c) Non-regulatory methods should also be employed by councils;
- (d) Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- (e) Early consultation of land users in plan preparation; and
- (f) Ensuring that RMA plans work in the growers' interests both in an environmental and "right to farm" sense.

Since 1997 HortNZ has been, and continues to be, an active participant in the regional and district planning processes since 1998 and has emphasised expert based involvement since 2005. HortNZ's investment in this activity is significant. For example, in the Financial Year to 2016 \$1.3m was expended by HortNZ on resource management and environment advocacy work. This included evidence preparation and submissions on more than 48 plans and variations, more than 20 council hearings on decisions, 30 appeal discussions or mediations and 3 Environment Court Hearings.

HortNZ has also participated in and supported grower involvement in collaborative planning processes at the regional and national level, and now has a science investment programme focussed on delivering better understanding and stewardship of natural resources. As part of this programme we have been involved in nine regional collaborative planning processes and administer science contracts over a yearly value of \$1million.

Horticulture in New Zealand is a growth industry (see Figure 1 below). Total horticulture merchandise exports in 2014 were over \$1.65 billion, an increase in value of nearly seven percent on 2013 (can't calculate as we don't know the change in wine) horticultural produce exports. Three horticulture crops kiwifruit; apples (fresh & processed); and potatoes (fresh, frozen & processed); were collectively 64% of the value of New Zealand's horticultural produce exports in 2014.

Horticultural exports – Years to June (\$ million, fob)



Source: Statistics New Zealand

Figure 1 Exports in NZ horticulture over time

Increased export values of greater than \$10m were in:

- Apples (\$61m/+13% on 2013);
- Avocados (\$59m/+176%);
- Other processed fruit (\$13m/+17%); and

- Potatoes (\$11m/+12%).

Other major export crops are onions who are in a growth phase, predicting returns to be up 50% on 2015, from \$81 million to \$125 million FoB, and processed peas (\$80m). Vegetable seed exports, dominated by radish seed and carrot seed, fell \$14m (18%), but at \$66m vegetable seeds are significant exports. The value of New Zealand kiwifruit exports in 2015 at \$1.182 billion FoB was 27% above the 2014 and the average value of \$973m for the previous five years.

Land under horticultural crop cultivation in New Zealand is calculated to be approximately 87,140 hectares.

In addition to fruit, vegetables, flowers, seeds and bulbs exported the New Zealand horticultural sector also exported:

- Natural honey exports of \$187m was an increase of \$42m (29%) on 2013 (2008 \$62.6m). Bees and pollination are an integral part of New Zealand's horticulture.
- Export of horticultural machinery and components, valued at \$75m (free-on-board), primarily for cleaning, sorting and grading fresh and dried fruit and vegetables were exported in 2014 (\$47.2m in 2008).
- Income to New Zealand companies in the form of royalties and licence agreements are in addition to these component exports.

Domestic production

Combined domestic sales value of horticulture products are calculated to exceed \$3.2 billion and exports of \$3.9 billion has the value of New Zealand's horticultural outputs exceeding \$7 billion for the first time.

Domestic production dominates the vegetable sector and is a core element of New Zealand's food network. Parts of the domestic supply chain are in our view now being affected by constraints on production that are influenced by the availability of suitable land. Effects tend to result in increased prices for access to products that are staples of the New Zealand food basket such as carrots, potatoes and leafy greens. The most crucial issue is the timing of production; with potential for shortages at key times of the year if resource access is not managed strategically.

The key constraints to growth in horticultural production, which are the basis for this submission, remain access to the factors of production - in particular, land and water:

- Access to water and land is becoming a key constraint to growth because of competition for versatile land for housing, the availability of water at high reliability, and water quality constraints.

- Of the 5.5% of land available for production in New Zealand roughly 1/10th was subdivided for lifestyle blocks in the last 15 years.
- Land is a non-renewable resource. Once this land is taken out of productive use and developed for other uses it is effectively lost.

Horticulture is a very efficient high value industry. For a comparison, ~50,000 people are employed in the >\$7Bn industry, operating off ~123,000ha. Dairy returns around \$18Bn, employs 30,000 people off a footprint of ~2.5million hectares. Increasingly, iwi-based agribusiness is looking to expand into horticulture and HortNZ has supported these groups to do so.

Local and national food security

Population growth not only increases demand on housing supply, it also generates and necessitates an increased demand on food supply. There is a general assumption that New Zealand is the land of plenty and we will always have enough locally-grown food to feed our population, supplemented by imported food where there is demand.

But things are changing fast. Prime fruit and vegetable growing land is being squeezed by rapid growth in towns and cities and high demand for new housing. When supply is short and demand high, prices are subject to wide variations. This can potentially put healthy food out of some peoples reach. We need to look closely at our domestic food supply and be sure that planning decision are seen in the context of impacting the whole of New Zealand's food supply.

HortNZ have made projections around annual food volumes available for consumption in New Zealand¹. With New Zealand's population expecting to reach 5,045,000 by 2020 (based on annual growth between 1.5-2%), domestic food supply will not be able to sustain our future population consumption needs.

Our current consumption levels of fresh produce in retail and food service shows that net production is already below what is required for domestic consumption, meaning we can expect food shortages. This further highlights the importance of food security, land production and future-proofing the availability of resources to supply our growing population.

Horticulture in Waikato

Over 6,661 hectares of the Waikato Region is developed for commercial fruit and vegetable operations. The most dominant products include potatoes, onions, asparagus, kiwifruit, blueberries, avocados, carrots and apples.

As discussed above, onions and kiwifruit contribute significantly to New Zealand's export industry. While potatoes and carrots are staples in the kiwi diet and contribute to a healthy

¹ New Zealand domestic vegetable production: the growing story. HortNZ, 2017

wellbeing. Within the Waikato District area, horticulture and fruit growing contributed to 2.1% (or \$49 million) of GDP in 2016.²

Waikato district contains 418,893ha of prime rural land.³ There are large pockets of high class soils (LUC 1 – 4) strategically placed near the Auckland and Hamilton markets. With increasing pressure on productive land in neighbouring areas, there is a fundamental need, and exciting opportunity, to support the long-term growth of horticulture in the Waikato District area.

2. THREATS

There are a number of threats to the viability of the Horticultural sector in the Waikato. These are:

- Water management – including allocation of water quality and quantity parameters are key matters for the horticultural sector. Without water, land with high production potential cannot support high value rural production.
- Land supply – which is affected by changes to rural urban boundaries and land fragmentation. Access to the land resource is paramount for the horticultural sector.
- Infrastructure – the transportation needs of the rural sector include land access and linkages to the market, ports, airports etc. With urban growth comes added pressure to transport networks. There is also pressure on other infrastructure and resources such as gas supplies.
- Permitting – the regulatory regime must be permissive to avoid unreasonable costs and delays in undertaking rural production activities. The other risk associated with permitting is that it works at cross purposes. The plan needs to ensure that the underlying resources required for rural production are not disconnected from the activity provisions.
- Reverse sensitivity – conflict between resource users and particularly with rural residential land use can result in constraints to production.
- Biosecurity – policy to manage threats must be clear, activity placement must be cognisant of biosecurity issues, in the event of a biosecurity threat the regulatory regime must permit immediate action such as burning or burial of plant material.

The threats to the horticultural sector underpin much of the commentary and suggested changes to the Draft Proposed Waikato District Plan by the submitter.

² Openwaikato.co.nz

³ Openwaikato.co.nz

3. DEFERRED ZONE

There is general support from HortNZ for the use of a Deferred Zone to provide for potential urban development areas for Council's long-term growth. However, the submitter identifies issues that include.

- The need for the Draft Proposed Plan to better describe the locational choice for urban growth to provide guidance on how rural land use factors are considered and whether there are rural land use considerations that support or constrain achieving a quality compact urban form.
- The submitter has received feedback from growers identifying concerns with the loss of land with high production potential to urban expansion in Tuakau.
- There are alternatives to the Deferred Zone to be considered, both in terms of location and urban form (including density).
- Large Post Harvest Facilities and rural production is located within the Deferred Zone.
- The loss of land with high production potential to urban expansion in Tuakau will have adverse social, cultural and economic impacts on the community. Jobs will be lost.
- There needs to be discussion on issues at the urban and rural interface and how these are to be managed i.e. reverse sensitivity, noise, odour, lighting, amenity, transport linkages, as this may affect urban form.

Tuakau

Access to the land resource is paramount for the horticultural sector. It is HortNZ's national position that expansion of urban areas should not be on land with high production potential. Inappropriate choices on greenfield expansion compromise regionally significant rural production systems.

This issue is fully recognised in the decision version of the Auckland Unitary Plan⁴ but was not appropriately addressed in the now withdrawn Plan Change 16 in Tuakau where the same rural production systems rely on the same rural resources and the submitter is concerned that this matter may not be adequately addressed in the proposed plan.

There are locational reasons why the rural sector is so productive in Tuakau related not just to the quality of soil but also access to freshwater, transport linkages, post-harvest facilities, access to labour, the proximity of the market and a diverse land parcel structure. There is a need to preserve areas of rural production for rural production and provide for growth and

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<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Documents/ihprec-ommendations/ihp011ruralenvironment.pdf>

sustained access to land and water. There is also a need to ensure land owners have flexibility to change rural production land use activities and that the regulatory regime is practical and supportive.

The Future Urban Zone of Auckland and the Deferred Zone proposed through the Draft Proposed Plan will be less than 2.5km apart and fall across rural production systems that are a critical part of the food supply system. The growth management framework for Tuakau needs to be more sophisticated and look outside of the District/Regional boundary.

It is the opinion of HortNZ that through this plan change the Waikato District Council has chosen housing over food production when alternatives to meeting housing demand have not been fully considered and where food production opportunities will be lost forever.

The section 32 will be required to evaluate the relationship of rural production land in Tuakau with the Auckland/Waikato rural production systems that produce food and the effect of the proposed changes on those production systems. The assessment will need to identify and assess the benefits and costs of the environmental, economic, social, and cultural effects of losing high value rural production land to housing. i.e:

- Is the growth necessary in Tuakau given the release of decisions on the Auckland Unitary Plan?
- Are there alternative greenfield options around Tuakau or in other locations not on land with high production values?
- Is intensification in the Tuakau town centre or a different range of residential scenarios a better option than residential lots on land with high production values?

It is not just the food security and economic benefits associated with rural production that are important to Auckland and the Waikato. The rural economy supports rural communities and as identified in the Tuakau Structure Plan, “Tuakau is a rural service town”. Tuakau is dependent on safeguarding productive rural activities if it wishes to retain that function. If not and it wants to become part of the solution to meet housing demands in North Waikato/South Auckland, then Council must look more carefully at where and how growth and intensification is provided.

Tuakau is very much part of the Auckland picture, on the North Island Main Truck Railway Line and better growth management options are available than rolling out minimum residential lot sizes in the existing urban area and across adjoining high quality rural production land.

Rural production also defines much of the rural landscape. The landscape assessment prepared for the Tuakau Structure plan references the long history of cultivation in Tuakau⁵,

⁵ Page 27, Tuakau Landscape Assessment Report of the Tuakau Study Area prepared for Waikato District Council by Mansergh Graham Landscape Architects.

citing reports of fertile crops, a flour mill erected 1853, peach groves and crops of wheat, oats, potatoes and onions. To this day the horticultural landscape is a common feature in the Rural landscape recognised by the notified Urban Design guide stating “*Tuakau is characterised by its rural horticultural context*”.

Waikato Regional Council – Plan Change 1 Health Rivers

Like Horticulture NZ, the Waikato District Council has provided comprehensive submissions to the Health Rivers Plan Change (PC1) to the Waikato Regional Plan. Notably both organisations are aligned on their concerns with Rule 7 of PC1 that introduced a non-complying activity status (with immediate effect) for land use change. This needs to be considered in the context of any proposal by the Waikato District Council to rezone high value rural production land to urban or to introduce regulation that constrains rural production activities. Land proposed to be rezoned for housing and lost to rural production cannot now not be replaced in the Waikato District or Region. That outcome is a loss of rural production from the District and Region.

4. SECTION A

HortNZ supports a plan that recognises the benefit of retaining rural land for productive purposes and the life-supporting capacity of versatile soils as an environmental benefit. The role and values associated with rural production must be identified, noting the District contains rural production land that is part of the national food supply rural production system.

The effects of PC1 on District land use management cannot be understated. PC1 directly affects existing and future land use aspirations the District may have. District planning cannot ignore the linkage between regional and district land use policy and this needs to be addressed in Section A and Section C.

The plan must clearly set out the urban and rural growth management strategy for the District, aligning with regional and inter-regional growth management frameworks. A clear strategic direction must be provided.

5. SECTION C

Section C sets out issue statements, objectives and policies for 16 topics. Rural issues are addressed across a number of the topics but the topic Natural Resources directly addresses:

- Rural resources
- Soil Removal and Damage
- Access to Soils
- Land Fragmentation

While generally supportive of the policy platform, HortNZ suggests that the framework could be rearranged to assist with interpretation and administration.

The introduction under Natural Resources is a very narrow discussion that focusses primarily on Subdivision. Other matters, for example reverse sensitivity and biosecurity are not introduced.

HortNZ suggests the plan is better formatted in a manner similar to the Auckland Unitary Plan Regional Policy Statement (Chapter B9) under a topic of Rural Environment and subheadings of:

- Rural Activities
- Land with High Production Potential
- Rural Subdivision

Much of the proposed policy can be simply transferred to the new format which we consider is a better arrangement of the key issues for the rural environment and rural resources. This is demonstrated in Attachment A.

It may well be that the Rural Character and Amenity issue/objectives/policies (under review) can also be included under this topic.

HortNZ seeks inclusion on provisions for biosecurity and the management of incursions of unwanted organisms under the Biosecurity Act. District Plans can be a regulatory hurdle to rapid response to such incursions.

Biosecurity risks to primary production activities are significant and could have serious impact on both urban and rural communities, particularly the production of food. There needs to be active management to ensure that threats do not enter the country and if they do that pest incursions are able to be addressed.

While biosecurity is generally managed under the Biosecurity Act, there is an interface with the RMA so the Plan has a role to play in respect of managing biosecurity risks.

Unwanted organisms are not currently found in NZ, so are not identified in regional pest management strategies or the National Pest Plan Accord. In the event of a biosecurity incursion of an unwanted organism a rapid response to manage spread is necessary. Vegetation removal, burial, burning, spraying of material are methods that may be used, including in riparian areas.

It became evident through the PSA incursion that District Plans can be a hurdle in responding to biosecurity risks, primarily in vegetation removal and burial of material, including riparian planting.

There are a range of threshold levels for biosecurity incursions and it is only when a biosecurity emergency is declared by the Minister that the Biosecurity Act overrides the RMA provisions. In other situations, a declaration may be made by the Chief Technical

Officer of Ministry of Primary Industries (MPI). In such a declaration the regional and district plan rules need to be met in terms of disposal of infected material and given the urgency required it is not practical to have to obtain resource consent. Therefore, provisions are included in the Plan to enable disposal or treatment of material to be undertaken in response to a biosecurity incursion.

Suggested wording for objectives and policies:

Objective:

To minimise the risk of biosecurity incursions in the district and enable response to any biosecurity incursions.

Policy:

Enable disposal of infected material for biosecurity purposes and treatment of areas to manage incursions of unwanted organisms.

Add the following explanation in the Plan:

A Biosecurity incursion could have devastating effects on the wellbeing of the district, particularly the horticultural industry. While incursions are managed under the Biosecurity Act, Council has a role in ensuring that land use activities do not increase the risk in facilitating incursions and to ensure there are not regulatory barriers to the management of incursions, such as burial or removal of infected plants or animals.

6. SECTION B

FORMAT

Section B are the rules for the proposed plan. This section uses a mix of activity table arrangement to set out the rule framework. It is the opinion of the submitter that the activity table format used in Infrastructure and Energy Rules section is an easier format to interpret than the activity tables used elsewhere in this section.

HortNZ notes the limited use of Controlled Activity Status and Restricted Discretionary Activities throughout the draft plan. In most cases, the plan appears to jump from Permitted Activity status to Discretionary Activity Status. HortNZ finds this to be overly onerous and does not provide any transparency or certainty for applicants. It does not account for the fact that different activities, by their nature, will result in different levels of adverse effects.

The use of controlled and restricted discretionary activity statuses provides clear direction for applicants and council staff as to the anticipated outcomes and provides for the assessment of effects to align appropriately with anticipated environmental effects.

A plan with significant reliance on Discretionary activities as a regulatory framework does not embrace the intent of the RMA, the purpose of controlled or restricted discretionary activities or focus on actual or potential environmental effects associated with particular activities.

RURAL ZONE

HortNZ is supportive of the zone and its extent and notes that the primary intent is to support productive rural land use. However, the manner in which the zone introduction describes amenity values is not supported. The intent is to set out that the amenity of the rural environment is different than a residential environment, but the plans describes the amenity values experienced by residents of the Rural Zone as lower than those enjoyed in the Residential Zone. This is not the case and it would be better if the introduction set out the different amenity values of the rural environment.

The plans approach that any activity is permitted if it is not listed as prohibited, and it complies with conditions for permitted activities stated in every row of the rule tables is supported.

LAND USE EFFECTS

Noise

While the proposed noise standards are not anticipated to be a constraint for rural production activities (particularly given the farming noise exclusion), the rule adds another layer of regulatory constraint. Demonstrating compliance adds further cost to activities and projects. The section 32 will need to clearly identify that there is a resource management issue that requires the regulatory response including evidence of complaint and enforcement.

Noise – Frost Fans

The proposed 55dB (LAeq) is a commonly applied standard and is supported.

Noise - Audible bird scaring device

HortNZ outlines the following as key principles for audible bird scaring provisions in District Plans:

- Permitted activity subject to conditions
- Based on best practice
- Recognise seasonal/ intermittent use
- Recognise as important part of rural production
- Recognise as appropriate in rural areas
- Differentiate between bangers and sirens as the effects are different
- Apply to fixed devices
- Link conditions to location of dwellings – not amenity for open rural space
- Require compliance with noise standard rather than mandatory distance as distance can vary depending on mitigating factors such as contour.
- Standards should not apply to sites in the same ownership
- Default activity status RDA with clear matters of discretion

Proposed rule:

An audible bird scaring device:

- a. Shall only be operated from half an hour before sunrise to half an hour after sunset.
- b. Shall be set to operate at no greater frequency than 12 times in any period of one hour, that is 12 single discharges or four groups of three discharges.
- c. Shall not be operated for any continuous period exceeding two seconds.
- d. Shall only be operated when the horticultural crop is at risk from bird damage.
- e. Shall not exceed 65dB ASEL at the notional boundary of any dwelling in the Rural Zone or at the boundary of any Residential Zone (excluding any dwelling/s located on the same site as the device is being operated).
- f. Where those persons who experience noise levels over 65dB ASEL as described in (e) above, have provided written approval to Council then the activity shall be permitted.

Include a restricted discretionary activity rule where the noise controls cannot be met.

Discretion is to be restricted to:

- Location of audible bird scaring device
- Noise levels at the notional boundary of adjoining properties
- Number of shots per event

Glare and artificial light spill

While the proposed glare and artificial light spill standards are not anticipated to be a constraint for rural production activities, the rule adds another layer of regulatory constraint. Demonstrating compliance adds further cost to activities and projects. The section 32 will need to clearly identify that there is a resource management issue that requires the regulatory response including evidence of complaint and enforcement.

General Earthworks

The Permitted activity status for the earthworks that is for cropping or agricultural activities/ancillary rural activities is supported. However rather than using the term 'cropping' HortNZ recommends 'cultivation'

There may be some constraints to rural activities via the limitation of earthworks with 1.5m of an open drain or overland flow path. Open drains should not include artificial watercourses and overland flow paths should be defined.

Land disturbance activities are a common and necessary requirement to support rural production activities. There is often confusion and misunderstanding between planning documents around these activities that can result in regulatory regimes that are impractical and unworkable for rural land users.

There are three areas of land disturbance of interest to the submitter being:

- Earthworks
- Clean filling
- Cultivation

Earthworks are works that involve the relocation of quantities of soil, rock or cleanfill. Clean filling is the deposition of inert no-hazardous material to enact land form change and this does not include material imported to a site for driveway, track or hard stand construction or maintenance.

Cultivation is the preparation of land to support rural production. The soil is not relocated and the activity is different to earthworks. However, as with earthworks, cultivation also exposes soil to rain and wind and requires an appropriate management response to ensure rural production activities are not inhibited and the life supporting capacity of the soil resource is protected.

The plan must provide methods that are fit for purpose and ensure no barriers to the operation and growth of rural production. The submitter supports a Permitted Activity status arrangement for:

Earthworks for the installation, operation and maintenance and repair of:

- Fences – being a necessary rural activity with ancillary earthworks that includes fence line tracking and post ramming.
- Planting of any vegetation – that must include hedges required for horticulture and may require ground preparation for planting or earthworks associated with stump removal.
- Driveways and parking areas - being a necessary rural activity and includes paddock access and hard stand areas for farm vehicle movements associated with horticulture e.g. truck units for harvesting.
- Irrigation and land drainage work below the natural ground level.

The Permitted and Restricted Discretionary Activity thresholds (volume and area) for earthworks in the Rural Zone is also supported and the submitter would not support a more onerous activity status for earthworks.

The submitter supports a Permitted Activity status for Biosecurity related earthworks.

Filling using imported soil, cleanfill or managed fill

Cleanfill assists with land development. Often cleanfill in the form of clay based material or granular fill is required as foundation material to support building development in the rural environment. Cleanfill is also used for land management purposes such as drainage or track creation and maintenance. Material is typically sourced offsite and deposited on the rural property which can mistakenly be deemed a cleanfilling activity. Invariably cleanfill activities of this nature are also considered an earthwork activity. Legacy plans provide a confused

consenting regime that often requires consent for cleanfill deposition and earthworks which are a typical and necessary part of rural land use development and management.

Cleanfill associated with building platform and foundation establishment is typically required to be certified by an engineer as part of the Building Consent process. There is no need to duplicate engineering information requirements or set erroneous resource consent requirements or conditions for matters than could be covered in appropriate permitted activity controls.

The permitted activities must provide for cleanfill for building platform and foundation establishment. Cleanfill used for land management purposes such as drainage or track creation and maintenance must also be a permitted activity.

Hazardous substances

The draft hazardous substance provisions do not reflect current planning approaches to managing hazardous substances. HortNZ does not support the use of HFSP and Activity Status Tables (AST) or quantity trigger limits as they are not an appropriate framework for managing hazardous substances, and are overly complex and onerous.

The reasons for this opposition include:

1. Duplication with HSNO

- the evidence of Dr Peter Dawson, Senior Scientist, EPA that is attached to this submission demonstrates that the matters of concern to Council are adequately addressed through HSNO and there is no need for additional controls in the District Plan to achieve the outcomes sought.
- while Section 142 provides that district and regional plans can include provisions for hazardous substances it should only be where they are considered 'necessary' for the purposes of the RMA and where such provisions are in addition to the HSNO requirements. Given this premise there is no need to duplicate HSNO provisions in a district plan
- In the Christchurch decision (see attached) the word necessary was defined as being 'indispensable, requisite'. A s32 report would need to provide consider specific provisions deemed 'necessary' Waikato District

2. Unworkability of the AST approach for horticulture growers:

- Horticultural growers use hazardous substances such as agrichemicals, fertilisers and fuel as part of their everyday business.
- The substances and quantities that a grower may have in a store can vary day to day, week to week, season to season. The substances and quantities will vary according the crop grown and rotation. The range of substances that may be used can be extensive – but never all at the same time.
- Taking a stocktake and doing the calculations to establish quantity limits for all hazard classifications could be out of date within days. A grower could be compliant on one day but not the next. Therefore, it would be impractical to have to continually

update the calculations to ensure that the AST thresholds are met. This is a layer of complexity and compliance cost that is not necessary.

3. Does not implement best practice for management of hazardous substances:

- NZS8409:2004 Management of Agrichemicals (NZS8409) is a NZ Standard that has been developed by Standards NZ and sets out the requirements for safe, responsible and effective management of agrichemicals by users. It was written with the intent of meeting legislative requirements under the RMA and HSNO and it has been accepted as an Approved Code of Practice under HSNO so is a means of achieving compliance with HSNO. As such it sets out best practice for the management, use, transport, storage and disposal of agrichemicals.
- The Environment Court has accepted use of NZS8409 in Plans. In *Bodle v Northland Regional Council* (2004) 10 ELRNZ 227 the Court considered that the use of NZS8409 in the plan to be both appropriate and sufficiently certain.
- HortNZ considers that amended provisions should include reference to NZS8409:2004 Management of Agrichemicals as a means of achieving compliance with HSNO requirements.

4. Christchurch Replacement District Plan and decision:

- The proposed provisions for hazardous substances in the Christchurch Replacement District Plan were based on the AST approach. Mr Norbert Schaffoener was a consultant to the Council.
- A number of parties, including HortNZ, opposed the provisions. The Crown was involved in the process through CERA. While hazardous substances have been debated in a range of district plan processes this was the first time that the Crown or the EPA were directly involved. The hearing was conducted in a semi-judicial manner, including cross examination of witnesses.
- The result was a 'Revised proposal' that was agreed by all submitters and presented to the Hearing Panel. The revised proposal was significantly different to the notified plan, including the deletion of the Activity Status Tables which set out quantity thresholds. The Hearing Panel made a final decision based on the Revised proposal.
- The outcome of the enquiry and hearing is documented in the decision of hearing panel (the "Christchurch decision") which is attached to this submission.
- The Christchurch outcome is important to consider as it included a level of enquiry and rigour, including cross examination of witnesses that has not occurred through the other plan processes.
- HortNZ considers that this decision establishes a sound basis for managing hazardous substances in district plans and seeks that the principles and approach be the basis of the Plan provisions in Waikato.

It should also be noted that the Resource Legislation Amendment Act 2017 amended the provisions of the RMA to remove obligations on both regional councils and territorial

authorities in relation to hazardous substances so Council should consider how the changes in the regulatory framework for obligations to manage hazardous substances flow through into the District Plan.

The intent of the Government in developing the amendment to the Act is to rely on HSNO. In the Summary of the Reform Proposals 2013 it states:

The removal of the explicit function for councils to control hazardous substances will not limit council's abilities to use land use controls to avoid hazardous substances events where appropriate under the RMA, but it will remove the perceived need for RMA controls in all circumstances.

Given this direction HortNZ considers that Council needs to re-evaluate the approach in the district plan so that it more clearly aligns with the direction signalled by the Government.

Affected sections in the Draft Plan include:

- Issues: Management of Hazardous Substances.
- Rules: Hazardous Substances.
- Table X.1 Activity Status Table –Permitted Activity Thresholds.
- Table X2 Standard for Permitted Activities
- Hazardous Substances - Assessment Matters for Discretionary Activities
- Definition of hazardous facility

HortNZ seeks that Council work with submitters and interested parties to develop provisions for hazardous substances appropriate for Waikato including identification of specific resource management issues for which controls are necessary to be included in the Plan.

Indigenous vegetation clearance - outside a Significant Natural Area

There is a need to recognise productive rural land use requires the ability to manage vegetation species and growth to ensure production activities are not compromised. Unmanaged vegetation can cause root intrusion or overhang of productive land as well as adverse shading effects, infrastructure (tracks, pipes, buildings) disruption and harbour pests and diseases. The submitter suggests policy and method changes to address this deficiency.

The submitter supports a Permitted Activity status for vegetation clearance related to biosecurity. Particularly, removal of material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

Any limitation on the ability to plant, maintain or remove hedges and natural shelter belts in the Rural Zone is opposed.

LAND USE - BUILDING

Retirement villages (under review)

The draft plan provides no information other than a heading for this activity. Horticulture NZ would have significant concerns with the introduction of this urban activity with

characteristics completely aligned with residential land use, being introduced into the rural zone. These are activities known to be sensitive to the effects of rural production activities and known areas of conflict between competing land use. We are unable to see the resource management justification for introducing these activities into a rural production environment.

Minor Household Units

The continued viability of the Horticultural sector requires access to labour and the provision where necessary of farm workers accommodation that addresses permanent and seasonal worker accommodation needs. The plan does not appear to provide for these activities.

The submitter provides a suggested method that reflects the long-standing rule that exists in the Auckland Council District Plan (Franklin Section). The rule provides for more permanent farm workers arrangement where the employee (and family) are required to live on site and short-term accommodation in which workers are housed in dormitory or equivalent with only a single kitchen facility accommodating a multiple number of seasonal workers. The post-harvest industry has developed a Code of Practice for Seasonal Worker Accommodation which allows for a departure from certain clauses in the Building Act 2004.

Minimum Site Area – Dwelling (under review)

The draft plan provides no detail on the minimum site area but Horticulture NZ would welcome the opportunity to discuss the intent with Council and potential options.

Building height

The purpose of a building height limitation is to manage the bulk and scale of buildings to ensure they are in keeping with rural landscape, character and amenity. In the Waikato the submitter considers that the approach should differentiate heights for dwellings and their accessory buildings from other buildings as follows:

- Dwellings and buildings accessory to dwellings – buildings must not exceed a height of 9m.
- Other buildings – buildings must not exceed a height of 15m.

Daylight Admission

The section 32 will need to clearly identify that there is a resource management issue that requires the regulatory response in light of a maximum height limit and yards. Should this not be a matter of discretion for a yard infringement.

Building coverage

The building coverage limitation at 2% of the site area, or 500m², whichever is the larger, is a constraint for rural production activities and does not support the built infrastructure often associated with and required by rural production activities. The discretionary activity status

is a further disincentive for rural production activities to locate and expand in the Waikato District.

Buildings for productive rural activities

The 1000m² gross floor area limitation on buildings for productive rural activities, is a constraint for rural production activities and does not support the built infrastructure often associated with and required by rural production activities. The discretionary activity status is a further disincentive for rural production activities to locate and expand in the Waikato District. This is a particular concern for greenhouse activities that will look across the regulatory regime as part of site selection. This limitation does not align with the plans supportive objective and policy structure for rural production activities.

Building setbacks - allotments 1.6ha or more

The regime requiring a 25m setback for habitable buildings and 12m for non-habitable buildings is supported by HortNZ. Setbacks are the most efficient and effective method to address reverse sensitivity and conflict between activities.

Building setbacks - allotments 5000m² to less than 1.6ha

The tailored setback regime for smaller allotments is supported by HortNZ. Setbacks are the most efficient and effective method to address reverse sensitivity and conflict between activities.

Building setbacks - allotments less than 5000m²

The tailored setback regime for smaller allotments is supported by HortNZ. Setbacks are the most efficient and effective method to address reverse sensitivity and conflict between activities.

Energy corridor - setbacks (under review)

HortNZ is concerned that the provisions for infrastructure and the National Grid do not accurately reflect the NPSET.

Amend objective xxx3 Infrastructure is protected from reverse sensitivity effects and incompatible land uses to: Manage land use activities adjacent to infrastructure to avoid, remedy or mitigate adverse effects including reverse sensitivity effects.

Amend following Policy (3) to reflect the NPSET: Subdivision use and development will be managed, *to the extent reasonably practicable*, to ensure that the operation, maintenance and upgrading of the *existing* national Grid is not compromised by:

Amend 3 b) by deleting 'safety and ongoing and efficient'

Subdivision

HortNZ supports the overall policy approach for rural subdivision and defined countryside living areas. HortNZ remains opposed to subdivision of land with high production potential that results in additional dwellings.

The resource management justification for proposed rural hamlet subdivision (using multiple existing titles) is not clear. Rural hamlets of the density proposed would appear to introduce urban activities and urban amenity expectations into the rural environment, conflicting with policy supporting rural production. The submitter understands the Council does not wish to pursue a transferable rural subdivision method and the section 32 will need to assess why rural hamlet subdivision is a better method with better environmental outcomes than rural transferable rural subdivision for the same multiple existing titles.

DEFINITIONS

Agricultural and Horticultural Research Activities

These activities are an integral component of rural production, require a rural location and access to the rural resources and are necessary to continue to maintain and grow rural production in New Zealand.

Ancillary rural earthworks

The exclusion of ancillary rural earthworks from the definition of earthworks is supported.

The definition of ancillary farming earthworks should be amended to include the activities of:

- burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.
- irrigation and land drainage.

Building

Crop support and artificial protection structures are necessary and part of the rural production environment.

Crop support structures include for example kiwifruit support structures while artificial protection structures are open structures made of permeable material that are used to protect crops from damage including bird netting; and wind-break netting but excluding greenhouses.

The definition of building should be amended to excluded these structures to ensure they are not subject to typical building limitations of coverage or yard setback controls.

Earthworks

The exclusion of ancillary rural earthworks from the definition of earthworks is supported.

Farming

The definition of farming and reference to this including horticultural activity is supported.

Farming noise

The definition of farming noise is supported but note that aircraft are used for both spraying and fertiliser application. The definition should be amended to reflect this.

High class soils

The definition of High Class Soils is the key to the implementation of the proposed rural subdivision framework. The proposed definition is wholly reliant on the New Zealand Soil Classification System to define these areas. While this a useful starting point, it is the experience of HortNZ that there is other land and other factors that make land capable of high value rural production. Given the critical nature of the definition to support the plan implementation and outcomes sought, HortNZ suggests it would be useful to convene Council, scientists and rural industry representatives to work together to accurately and spatially identify that land that should be protected from the adverse effects of inappropriate subdivision and development.

Indigenous vegetation

The exclusion of planted shelter belts comprising indigenous species from the definition of indigenous vegetation is supported.

Minor dwelling

The narrow application of the minor dwelling definition and rule and the lack of provision for farm workers accommodation is not supported.

Productive rural activities

The definition is supported and in particular the reference to soil-based production and the processing of primary products.

Reverse sensitivity

The meaning of the term “reverse sensitivity” has been debated in a number of cases and it is considered that this definition from the Bay of Plenty Regional Policy Statement accurately captures what is intended by the use of the term. Some definitions have referred to new activities complaining about the effects of new activities. The concept of limiting it to complaints was not included here on the understanding that reverse sensitive effects can be

wider than just complaints and some activities can mean that the pre-existing activity has to change to adapt to the new activity.

Proposed definition:

The potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment or alteration of other activities which are sensitive to the adverse environmental effects being generated by the pre-existing activity.

Rural ancillary earthworks

It is not clear why definitions of rural ancillary earthworks and ancillary rural earthworks are required.

Rural industry

It is not clear why definitions of rural industry and rural industry and services are required.

Rural industry and services

The definition identifies packhouse and coolstore permitted by [Rule 23A.1.1](#) do not come under the definition of rural industry and services.

HortNZ supports the current approach of the Waikato District Plan (Franklin Section) to the provision of this essential infrastructure to support rural production.

Of note is that these facilities are changing as the industry changes. There is a requirement to modernise the definitions to provide for a broader range of activities. In addition, increases to the existing footprint of these facilities should be encouraged to increase the efficiency of post-harvest production as an alternative to requiring greenfields development. The submitter refers the definition of a Post-Harvest Facility from the Auckland Unitary Plan as follows:

Building operated by any number of growers and used for the storage, packing, washing, inspecting and grading of eggs, fruit, vegetables, or other (natural and unprocessed) primary produce brought to the post-harvest facility from a range of locations, and includes all activities that are an integral aspect of post-harvest operations.

Includes:

- *use of the site for the collection and distribution of horticultural products;*
- *slicing and dicing agricultural products in preparation for distribution to retail outlets, including the disposal of associated waste material from these activities;*
- *preparation and shrink wrapping horticultural products in preparation for distribution to retail outlets;*
- *collection and distribution of agricultural products including the cross loading of trucks used in the collection and delivery of horticultural products; and*

- *the on-site servicing and maintenance of vehicles and equipment associated with the activities.*