

IN THE MATTER of the Resource Management Act
1991 ("**the Act**")

AND

IN THE MATTER of the Resource Management Act
1991 and the Environment
Canterbury (Temporary
Commissioners and Improved Water
Management) Act 2010

AND

IN THE MATTER of the hearing of submissions on the
Proposed Land and Water Regional
Plan

**STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE FOR
HORTICULTURE NEW ZEALAND
4 FEBRUARY 2013**

QUALIFICATIONS AND EXPERIENCE

1. My full name is Lynette Pearl Wharfe. I am a planning consultant with The AgriBusiness Group. I have a BA in Social Sciences and post graduate papers in Environmental Studies, including Environmental Law, Resource Economics and Resource Management.
2. I am an accredited commissioner under the Making Good Decisions programme with Ministry for the Environment.
3. I have been a consultant with The AgriBusiness Group since 2002. The Agribusiness Group was established in 2001 to help build business capability in the primary sector.
4. I have spent over 13 years as a consultant, primarily to the agricultural industry, specialising in resource management, environmental issues, and environmental education and facilitation.
5. In my years as a consultant I have worked primarily in the rural sector. Some of the projects I have been involved in that I consider are particularly relevant in this context are:
 - (a) Project Manager and facilitator for a Sustainable Management Fund (**SMF**) Project 'Reducing nitrate leaching to groundwater from winter vegetable crops', to develop management tools for vegetable growers to implement best practice for fertiliser applications, to assist in changing fertiliser usage.
 - (b) Managed an SMF project for NZ Agrichemical Education Trust communicating the revised NZS 8409:2004 Management of Agrichemicals to local authorities throughout NZ, including development and leading workshops with councils.
 - (c) Revised the Manual for the Introductory GROWSAFE® Course for the NZ Agrichemical Education Trust, to make the Manual more user friendly and accessible

and to align it with the Hazardous Substances and New Organisms legislation.

- (d) Programme Manager, MAF Agricultural Recovery Programme (Government response to February 2004 storm and flood event in the Lower North Island – including the Manawatu Wanganui region) March – August 2004.
 - (e) Chair, Crop Committee, MAF Agricultural Recovery Programme Sept 2004 – 2006.
 - (f) Managing the research component for SFF project – SAMSN – developing a framework for the development of Sustainable Management Systems for agriculture and horticulture.
 - (g) Project Manager MAF Operational Research Project Effectiveness of Codes of Practice investigating the use of codes of practice in the agriculture and horticulture sectors.
 - (h) Project team member for MfE Hill Country Erosion scoping study.
 - (i) Undertook a review of Current Industry and Regional Programmes aimed at reducing pesticide risk, including assessing a number of Codes of Practice.
 - (j) Currently developing a Guidance Note for the Agricultural Aviation industry on the interface between agricultural aviation and the Resource Management Act.
6. I have been involved as a consultant to Horticulture New Zealand on the Proposed Land and Water Regional Plan contributing to the submission and further submissions.
7. I was the consultant planner for Horticulture New Zealand in the Horizons One Plan Environment Court Hearings. I gave evidence in appeals on the Land Chapter and the Water Chapter of the Horizons One Plan.

8. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's Consolidated Practice Note dated 1 November 2011. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

OVERVIEW OF AND CONTEXT FOR THE MATTERS THAT THIS EVIDENCE RELATES TO

9. This evidence addresses matters raised in the s42A Report by Canterbury Regional Council that are relevant to the planning matters and issues raised in the submission of Horticulture New Zealand.
10. The focus of this evidence is on provisions as they relate to horticultural operations, particularly the activity status of rules and identification of areas.
11. This evidence is provided in the context of the technical evidence presented by Peter Callander, Ian McIndoe, Shirley Hayward, Geoff Butcher and Andrew Curtis on behalf of the Canterbury Primary Sector Policy Group.

SCOPE OF THIS EVIDENCE

12. This evidence will address the following matters:
 - (a) Limits - Section 2.6 and Policy 4.1;
 - (b) Objectives;
 - (c) Strategic policies 4.1-4.8;
 - (d) Water takes;
 - (e) Vegetation and Soil; and
 - (f) Hazardous substances.

LIMITS - SECTION 2.6 and POLICY 4.1

13. A key consideration for the proposed Land and Water Plan (**pLWRP**) is the setting of limits as required by the National Policy Statement for Freshwater Management (**NPSFM**). In particular, where and how limits should be set.
14. Section 2.6 of the pLWRP sets out the overall approach. This then flows through to the Objectives and Strategic policies.
15. Horticulture New Zealand made further submissions supporting submissions by both Federated Farmers of New Zealand Incorporated and Irrigation NZ. Those submissions supported that the limits be set through the sub-regional plans.
16. Submissions and further submissions were also made by Horticulture New Zealand on Policy 4.1 and Tables 1a) b) and c) which set water outcomes for the Region.
17. Policy 4.1 requires that fresh water outcomes are to be set in the sub-regional plans and if they have not been set then the 'outcomes' in Table 1 are to be met. In this context the term 'outcomes' appears to imply 'limit' as the Table 1 'outcomes' are specific numerics.
18. The s42A Report (Pg 73) does not support changes to the relationship between the tables and Policy 4.1.
19. The Officers consider that the matter is at the heart of the pLWRP structure and the facilitation of the Canterbury Water Management Strategy (**CWMS**) outcomes through the regional and sub-regional plan structure. The Officers consider an alternative approach would require a significantly different concept in terms of plan drafting and suggest this would significantly influence the ensuing debate as to how or whether CWMS Zone Committee outcomes could be achieved through the sub regional section. The Officers also consider that there would be difficulty in the interim period while the sub regional sections are developed.

20. The s42A Report (Pg 101), in relation to submissions on Policy 4.1, considers that the setting of limits through the sub-regional plans would be a fundamental shift in approach.
21. The evidence of Shirley Hayward, for Fonterra, sets out how the figures in Table 1 were derived and the concerns she has for how they are now being used in the pLWRP. She does however support the use of the figures as interim water quality objectives and the sub-regional chapters reviewing and redefining the numeric criteria.
22. I support the use of Table 1 as interim figures while the sub-regional chapters are being developed. This addresses the concern expressed in the s42A Report about difficulties in the interim period.
23. An assessment of the Strategic Policies 4.1 – 4.8 and the definition of 'limits' shows that nearly all the policies refer to the sub regional Chapters 6-15 for a range of purposes, showing that there is a very clear linkage between the Strategic Policies and the sub-regional chapters. The extent to which limits can be set separate from the sub-regional plans is questioned.
24. The fresh water outcomes are to be set in the sub-regional plans (Policy 4.1) and if they have not been set then the 'outcomes' in Table 1 are to be met. In this context the term 'outcomes' appears to imply 'limit' as the Table 1 'outcomes' are specific numerics.
25. Additionally, the s42A Report is recommending that Policy 4.3 be amended as a result of submission by Nga Runanga so that the cultural values of each catchment are identified and provided for in the sub-regional sections of the plan. The cultural values are an important consideration in the setting of limits. These values need to be established at the sub-regional level and taken into account. A region wide approach to limits is not appropriate as it will not take into account the cultural values of each sub-region.
26. Policy 4.5 relates to high naturalness water bodies which are to be identified through the sub-regional chapters. Policy 4.6 refers to where water quality or quantity limits are set in

Sections 6-15 which clearly indicates that it is anticipated that limits will be set through the sub-regional chapters. Policy 4.7 requires that the sub-regional chapters establish methods and timeframes to eliminate over-allocation. Such a process is linked to the identification of the limits for each sub-region.

27. Policy 4.8 relates to harvest and storage of water. The s42A Report is recommending that the policy be amended by adding: 'or a water quality limit set in sections 6-15.'
28. The Strategic Policy framework and the evidence of Shirley Hayward support the setting of limits at a sub-regional level.
29. I consider that the interim period until the sub-regional limits are set can be managed through adopting Table 1 as 'Interim targets' to guide the evaluation of activities and to prioritise what catchments should have limits set first. However they should not be seen as definitive limits which form the basis of assessment of over-allocation as required by the NPSFM.
30. The NPSFM requires that freshwater objectives are developed based on values that the community hold. Such values and objectives are to be developed in a consultative process which then informs the setting of limits. The outcomes in Table 1 have not been informed by a process as anticipated in the NPSFM and so should only be used in the interim until such time that a NPSFM process is undertaken to form the basis of limits to be set.
31. It is my view and recommendation that Policy 4.1 be reworded as follows (with the added words shown underlined and deletions shown struck through):

Lakes rivers, wetland and aquifers will meet the fresh water outcomes set in Sections 6-15 within the specified timeframes. If outcomes have not been established for a catchment then each type of lake, river or aquifer will meet the ~~outcomes~~ the interim targets set out in Table 1 by 2023.

32. I also consider that the headings for Tables 1a) 1b) and 1c) need to be amended from the word 'outcomes' to 'Interim targets'.

OBJECTIVES

33. Horticulture New Zealand made a number of submissions and further submissions on the Objectives in Section 3 of the pLWRP.
34. The Section 42A Report is recommending a redraft of all the objectives, both in terms of their order and substance. I support the recommended changes unless specifically stated below.

Objective 3.23, now recommended to be 3.16

35. The submission by Horticulture New Zealand supported the use of 'good practice' but sought that the term 'protect' be replaced with 'maintaining or enhanced'.
36. The Section 42A Report is recommending that the Objective be amended to on refer to 'environmental' good practice. It is unclear why the report seeks a limitation on the application of good practice. In an on-farm situation there is not necessarily a clear demarcation between 'environmental' good practice and good practice per se.
37. The Section 42A Report recommends that the use of good practice is to 'optimise efficient resource use' as well as protect the fresh water resources from degradation.
38. The Report (pg 79) outlines the approach to the drafting of the pLWRP and the intention for wording to be clear and certain and not necessarily using the 'RMA language'. 'Protect' is one such word that has been identified in submissions as of concern. I support the concern of the submitters and Horticulture New Zealand in this respect.
39. While it is laudable to seek certainty and clarity it is also important that the words used do not convey an approach inconsistent with the RMA or the other objectives.

40. The wording sought by Horticulture New Zealand seeks to ensure that water quality and quantity is maintained or enhanced through the use of 'good practice'. This is a more pro-active approach than us of good practice to provide 'protection from degradation'.

41. I therefore recommend that the Commissioners adopt the wording sought by Horticulture New Zealand for Objective 3.23, now recommended to be Objective 3.16 as follows:

All activities operate at 'good practice' or better to maintain or enhance the quality and quantity of the region's fresh water resources.

42. An alternative change would be to refer to the values of water as follows:

All activities operate at 'good practice' or better to maintain or enhance the values associated with the region's fresh water resources.

New objective for food production

43. Horticulture New Zealand sought a new objective for food production as follows:

Food production in the Canterbury Region is essential for the community wellbeing and should be recognised and provided for.

44. A new objective for food production is not recommended to be included in the revised objectives in the S42A Report. However no reason is given (Pg 94- 95) as to why the new objective is not accepted. It appears to have been assessed as an 'economic' objective - to support economic activities and the economic benefits of water use and the agricultural sector.

45. I consider the value of food production is wider simply than the economic effect the agricultural sector has. As examples, I note the Horticulture New Zealand submission refers to the integration of Canterbury production with food

supply nodes in other regions.¹ I also note there is precedent for food production to be recognised as a value from Horizons One Plan appeals resolved in the Environment Court, resulting in the inclusion of Domestic Food Supply as a value for the Ohakune and Horowhenua districts of that region.

46. Food production is recognised as a value in the NPSFM and for that and the reasons given above I consider that it is appropriate that the importance of water to enable food production for the community is a matter that should be recognised within the pLWRP.
47. While recommended Objective 3.3 recognises water as an enabler of economic and social wellbeing of the region the issue of food production is not explicit.
48. Some objectives (eg Recommended 3.18) refer to specific values. The addition of a new objective as sought by Horticulture New Zealand is not inconsistent with such an approach.
49. Finally, I do not consider it is inappropriate to single values out, for example recreational values have already been provided an objective of their own in 3.18.
50. I therefore recommend that the Commissioners amend Section 3 - Objectives by adding a new objective for food production as sought by Horticulture New Zealand.

STRATEGIC POLICIES 4.1 -4.8

51. Policy 4.1 has been addressed above in respect of the setting of limits through the sub-regional plans and changes are recommended to both Policy 4.1 and Table 1a) 1b) and 1c).
52. The Section 42A Report is recommending that time frames be added to Policy 4.1 and I support this approach.

¹ Schedule 1, Page 3 HortNZ submission..

53. In relation to Policy 4.4, Horticulture New Zealand made a specific submission seeking that 'frost protection' be included in the list of uses of water. The Section 42A Report (pgs 103 – 105) does not appear to have addressed this submission.
54. I support the submission seeking the inclusion of frost protection as a use of water as it is distinct from irrigation use because of the quantum of water required in a very short period of time, usually when water resources are not under pressure.
55. Fruit and grape production in Canterbury is dependent on water as a form of protection from frost, particularly where use of other devices, such as frost protection fans, is problematic for noise and some other amenity reasons.
56. It appears on the face of it that frost protection has been inadvertently missed off the list of activities. The list in the pLWRP stems from the priorities set in the CWMS but it is my view that it should not be limited to those uses listed in the CWMS if it is now identified that some important uses have been omitted. One other example of a use that is omitted could be 'preparation of ground for cultivation'.
57. It is recognised that frost protection could be considered as 'other economic activities'. However, it is an identified use that has quite specific considerations that are appropriate to be identified in the Plan.
58. I recommend that the Commissioners accept the submission of Horticulture New Zealand and add frost protection as a specific use in Policy 4.4.
59. Horticulture New Zealand, along with a number of submitters, was concerned that Policy 4.6 failed to recognise existing users of water and that a renewal consent would generally not be granted if there is over-allocation of the resource. The submission sought that the policy be limited to 'new' consents.

60. I support the explicit recognition of existing users so that there is no doubt that the specific rights conferred through s124 of the RMA are not removed.
61. The Section 42A Report is recommending a change to add:
New consents replacing expiring consent may be granted, but will likely be subject to additional restrictions.
62. The recommended wording still has a degree of uncertainty with the use of the word 'may'. In my view, it would be better to use the wording already within the policy.
63. I therefore recommend that the Commissioners accept the recommendation in the S42A Report that Policy 4.6 be amended but that the following wording is used:
Consents replacing expiring consent will be assessed under s124 of the RMA and will generally be granted, but may be subject to additional restrictions.
64. Policy 4.8 relates to harvest and storage of water for irrigation or hydro-electricity schemes. Horticulture New Zealand sought the deletion of the word 'schemes' so that the policy was not limited to such schemes. The specific submission point is not addressed in the s42A Report.
65. The s42A Report does link the policy to the attainment of the CWMS outcomes, the regional concept and the development of the ZIP and that these documents are at risk of being frustrated by alternative proposals that are contrary to the ZIP.
66. This has the effect that there is a limitation for only 'schemes' to have the support of Policy 4.8. If other proposals seek to be considered they can be assessed against the regional concept and priority outcomes for the ZIP.
67. I recommend that the Commissioners accept the Horticulture New Zealand submission to delete 'schemes' from Policy 4.8.

WATER TAKES

Efficiency

68. Horticulture New Zealand made a submission seeking that dynamic efficiency be added to the definition of efficiency and that a new policy be included that includes all forms of efficiency.
69. The request for an amendment to the definition of efficiency is rejected in the s42A Report (Pg 214). The request for the new policy is assessed at 6.4 in the s42A Report. It is recommended to be rejected on the basis that the concept of dynamic efficiency is not defined or widely understood and that allocative efficiency is addressed in Policy 4.66.
70. It is my opinion that it is appropriate to include all forms of efficiency for the reasons set out in the following paragraphs.
71. The NPSFM has a definition for efficient allocation and use that includes economic, technical and dynamic efficiency. The pLWRP is required to give effect to the NPSFM therefore it is appropriate that all forms of efficiency are considered within the Plan.
72. The definition in the pLWRP only includes technical and allocative efficiency. Allocative efficiency is related to the economic benefits of water use and is more aligned to the economic efficiency in the NPSFM definition.
73. Dynamic efficiency relates to how water is able to be reallocated to the highest value use.
74. A recent report "What is irrigation efficiency?" by Aqualinc (2012) (pg 9) has the following:

In New Zealand, irrigation efficiency is often broken up into three areas:

1. Allocation – resources are optimally allocated to the production of different sets of goods in such a way that the welfare of society is maximised.
2. Dynamic – achieving an efficient allocation of resources over time that reflects changing production

possibilities (investment, innovation.....) and social preferences (price, externalities.....)

3. Technical or physical (includes storage, conveyance & use) – the rate at which resources, capital and labour are converted into goods. The more goods that are produced per unit of resource the higher the technical efficiency.

75. Technical or physical efficiency is usually related to the application of water at the farm or scheme scale, while allocative and dynamic efficiency is related to the regional availability and value of water.
76. I understand the report quoted above has been attached to the evidence of Andrew Curtis.
77. Given the importance of the allocative (or economic) and dynamic efficiency in terms of regional availability and value of water I consider that it is important that they are included in the pLWRP.
78. A lack of understanding about dynamic efficiency is not a justifiable resource management reason why this component should be excluded from the Plan.
79. I note the NPS defines efficiency to include all three concepts. I also note Objective B3 of the NPS refers to "improving or maximising the efficient allocation and the efficient use of water. I consider the Plan should be revised to give effect to this Objective in the NPS.
80. I recommend that the Commissioners include dynamic efficiency within the definition of efficiency as sought in the submission of Horticulture New Zealand.
81. I also recommend that consideration is given to the policy suite for efficiency and whether all components of efficiency are adequately addressed in the policies of the pLWRP.

Definition of property / site

82. Horticulture New Zealand supported in part and opposed in part a submission by Silver Fern Farms to include a definition for property, as opposed to site. Both terms are used in the

pLWRP. Given that both site and property are used in the pLWRP it is appropriate that there are definitions for both.

83. The definition sought was opposed in part because of the limitation of the land needing to be contiguous. However the definition for property was supported in part because it reflected the fact that many horticultural operations are not limited to a site.
84. A property would need to be utilised as a single operating unit and may include one or more certificates of title. I consider that the key issue is that the operation is a single unit, rather than the land being contiguous.
85. I recommend that the Commissioners accept the new definition of property on Pg 220 of the s42A Report but delete the word contiguous from the recommended definition.
86. Policy 4.47 relates to where abstraction exceeds the environmental flow or groundwater allocation limit. The submission of Horticulture NZ sought that amendments be made to ensure that the policy was practical and the same tests of efficiency applied to both community supplies and replacement consents.
87. The s42A Report is recommending changes to clarify that existing use of water may already be efficient. However no tests of efficiency are applied to community requirements. While a Water Supply Strategy may be required as part of consent requirements there is no explicit recognition of the need for efficiency and best management practices to be applied to such takes. To be equitable the plan should apply the same principles to all takes.
88. It is recommended that Policy 4.47 be amended by adding a requirement for community drinking and stockwater requirements to adopt best management practices to ensure water is taken and used in an efficient manner.
89. Policy 4.51 relates to conditions on consents to require telemetry reports. The submission of Horticulture New Zealand sought changes to the policy to target the use of

telemetry to over-allocated or near fully allocated those situations where it can be most effective as a management tool.

90. The s42A Report rejects the Horticulture New Zealand submission but makes changes as a result of a submission by Canterbury Regional Council. This change adds new clause b) for telemetry where there is a minimum flow or a trigger level that signifies a restriction on take. In my opinion, if Policy 4.51 b) is included in the pLWRP it will mean telemetry is required for most takes in Canterbury.
91. The Resource Management (Measurement and Reporting of Water Take) Regulations 2010 requires reporting but do not stipulate telemetry. This is a requirement that Council is seeking in addition to the regulations.
92. The s42A Report acknowledges that there is a cost and difficulties with technology for some users this is outweighed by the benefits of reliability and efficiency. The s42A Report does not address this issue or quantify the extent that the proposed changes to the policy would incur.
93. Nor does the s42A Report address the Horticulture New Zealand submission point that it is an appropriate tool for over-allocated or near fully allocated catchments. In the absence of a sound rationale for the addition of clause b) over and above the requirements of the regulations I cannot support the s42A recommendation to amend Policy 4.51.
94. Policy 4.73 relates to the transfer of water permits and includes a requirement to surrender a proportion of the allocated water. This policy is linked to Rule 5.107. Horticulture New Zealand made further submissions on both the policy and the rule. This matter is addressed in the evidence of Peter Callander in Section 10. I concur with his findings that the approach is arbitrary and that the claw-back mechanism will act as a disincentive to transfers of water.
95. The NPSFM seeks that both transfers and over-allocation are addressed however there is no requirement for claw-back through the transfer of water mechanism.

96. Strategic Policy 4.7 requires that a regime will be established in the sub-regional chapters to address over-allocation. Policy 4.71 and Rule 5.107 effectively override the process set out in the Strategic Policy by determining how over-allocation will be addressed through transfers of water. I consider this to be inappropriate.
97. I recommend that the Commissioners delete those parts of Policy 4.71 and Rule 5.107 pertaining to transfers and the surrender of a proportion of allocated water and allow methods for managing over-allocation to be addressed in the sub-regional chapters.
98. Policy 4.76 seeks to limit resource consents for water takes for use of land for farming activities in areas which are in a Nutrient Allocation Zone coloured red. Horticulture New Zealand opposed this requirement for the reason that short consent durations could lead to lesser environmental outcomes by discouraging investment in effective and efficient infrastructure.
99. The s42A Report considers that the policy strikes the right balance between the granting of resource consents and achieving community outcomes and implementing the CWMS. This matter will be explored more fully in the evidence to Hearing 2 where the use of land for farming activities will be addressed. While the policy has been incorporated into Hearing 1 it has very clear linkages to Hearing 2 and farming activities.
100. I recommend that the Commissioners defer a decision on Policy 4.76 until Hearing 2 when evidence relating to use of land for farming activities and the associated discharges of nutrients are considered.
101. Rule 5.87 provides for permitted takes of groundwater based on sites of more than 20ha in area. Horticulture New Zealand made a submission and further submission on Rule 5.87. In particular they are concerned about the limitation of 20ha which penalises horticultural operations. The s42A Report acknowledges that the rule does penalise such properties but considers that it is necessary to avoid effects

associated with a cluster of permitted activity abstractions occurring in close proximity.

102. Horticulture New Zealand considers such an approach is not equitable because sites under 20ha are still contributing to the economic and social wellbeing of the community but are restricted in access to water that other agricultural operations are able to access. I concur with that view.
103. The s42A Report notes the rule reinstates the original permitted volume under the Canterbury Transitional Regional Plan where 100 cubic metres of water per property per day was permitted. There does not appear to have been a limit on sites under 20ha in the transitional plan so in essence the rule is not reinstating the original permitted volumes as some sites will not be able to access water as a permitted activity.
104. The Horticulture New Zealand submission sought that Condition 1 be deleted. An alternative relief may be that condition 1 does not apply to sites under 20ha used for commercial agriculture or horticulture.
105. Rule 5.97 seeks a non-complying status for takes from surface water that do not meet conditions 2 and 3 in Rule 5.96. Horticulture New Zealand sought that the activity status be amended to discretionary. The s42A Report states that non-complying status is important in reducing over-allocation and to meet the water quality outcomes in the pLWRP. However the matters in Conditions 2 and 3 are linked to low flows and an assessment of the effects of the activity can be made at the time of considering the consent. Discretionary activity status allows for a full assessment of the matters to be considered.
106. Rule 5.98 seeks a prohibited activity for surface water takes where an activity does not meet condition 1 in Rule 5.96, relating to renewals of existing takes. Horticulture New Zealand sought that Rule 5.98 be amended to non-complying.
107. Non-complying status is supported in the evidence of Peter Callander (Section 7) on the basis that the process for setting

the limits is to be undertaken in the sub regional chapters so it is premature and inappropriate to set a prohibited status at this point.

108. Policy 4.6 also has a premise that where there is over-allocation consent will generally not be granted. In my view a non-complying activity has significant threshold tests to pass before consent could be granted. Therefore in my opinion a non-complying status is appropriate for Rule 5.98.
109. Rule 5.102 seeks a non-complying status for takes from groundwater that are outside a groundwater abstraction Zone. Horticulture New Zealand sought that this be amended to a discretionary activity.
110. The evidence of Peter Callander addresses in Section 8 the issues relating to abstraction outside of the Groundwater Allocation Zones and identifies that the potential effects do not justify non-complying activity status. I concur with his assessment as discretionary activity status allows for a full assessment of the matters to be considered.
111. Rule 5.103 seeks a non-complying status for groundwater takes that do not meet conditions 1 and 4 in Rule 5.101. Horticulture NZ sought that the activity status be amended to discretionary. The s42A Report links this rule to 5.102 and that it should be non-complying to avoid confusion. I cannot find justification for requiring a non-complying activity with the additional threshold tests required for such applications. Discretionary activity status allows for a full assessment of the matters to be considered.
112. Rule 5.104 seeks a prohibited activity for groundwater takes where an activity does not meet conditions 2 and 3 in Rule 5.101. Horticulture New Zealand sought that Rule 5.104 be amended to non-complying.
113. Non-complying status is supported in the evidence of Peter Callander (Section 9) on the basis that the process for setting the limits is to be undertaken in the sub regional chapters so it is premature and inappropriate to set a prohibited status at this point.

114. Rule 5.107 relates to transfer of water permits and is addressed in para 103 above.

VEGETATION AND SOIL

115. Horticulture New Zealand made a submission seeking changes to the definition of earthworks. The s42A Report addresses the definition of earthworks on Pg 384 but does not refer to the submission by Horticulture New Zealand.
116. The particular submission sought that harvesting of crops be added to the list of exclusions after cultivation of soil. Harvesting of root crops such as potatoes disturbs the soil and could be taken as being earthworks. The exclusion that Horticulture New Zealand sought provides certainty regarding the status of harvesting such crops.
117. I consider the changes to the plan suggested by Horticulture New Zealand provide greater certainty and clarity so I support the change to the definition of earthworks as sought in the submission.
118. In relation to Rule 5.148, the s42A Report (Pg 406) acknowledges that it was not the intention to require resource consents for 'normal' farming activities and the rules have been modified in the recommendations to clarify this. Horticulture New Zealand made submissions seeking changes to Rule 5.148 to ensure that normal horticultural activities such as cultivation were able to be undertaken. The recommended changes are supported as addressing a number of concerns stated in the submission.
119. Policy 4.19 seeks to prevent sedimentation by maintaining continuous vegetation cover adjacent to water bodies or capturing surface water run-off to remove sediment. Horticulture New Zealand submitted that there are also other mechanisms for managing potential for sediment, particularly for cultivation, that should also be provided for, such as mechanisms to reduce water movement through cultivated areas and ensuring that water can penetrate through the soil.

120. As a result of submissions the s42A Report is recommending that 'prevented' is replaced with 'avoided or minimised'. This is supported as the requirement for 'prevent' was a significant obligation. In addition recognition of adoption of control method and technologies are included in the policy, with continuous vegetation cover being one such method. These changes address concerns expressed in the Horticulture New Zealand submission and have led to a more practical and workable policy. I support that changes recommended in the s42A report.
121. Rule 5.148 b) will be the main rule that applies to cultivation for horticulture on land in that it is, outside the bed of a river or lake or adjacent to a natural wetland boundary, but within 5 m of the bed of a lake or river or natural wetland boundary in land not shown as High Soil Erosion Risk or Hill or High Country.
122. The 5 metre setback distance is recommended in the s42A Report and I support that recommended change. It is in line with Environment Court decisions regarding setbacks for cultivation rules determined recently in the Horizons One Plan.
123. Where cultivation is undertaken within the 5 metre setback distance it must meet conditions 1-7. Condition 1 has a low threshold (an area of 500m² or 10% of the area, whichever is lesser). This is not a very large area given the scale of some paddocks. Horticulture New Zealand sought that this condition be deleted. They also wanted condition 3 deleted (that any cultivation is across the contour of the land).
124. I support deletion of condition 3 relating to the contour. Condition 2 sets a standard relating to discharge of sediment and this condition should address the potential for sediment loss that condition 3 is seeking to limit.

HAZARDOUS SUBSTANCES

125. Horticulture New Zealand made a submission seeking that Policy 4.22 provide for the application of substances such as fertilisers and agrichemicals to land where that is the intended use.

126. The s42A Report recommends that an addition be made to the policy for where substances are approved under HSNO to be applied to land or into water. I support that recommendation as it ensures that use of such substances is not contrary to the policy framework in the Plan.
127. Rule 5.162 manages the use of land for storage in a portable container and the use of hazardous substances listed in Part A of Schedule 4. Condition 1 had a threshold of 2000 litres. The submission of Horticulture New Zealand sought that this condition be deleted because of the duplication with HSNO. The s42A Report is recommending that this condition 1 is amended to 5000 litres to coincide with the HSNO trigger for test certification of portable containers.
128. While there is a rationale to support the 5000 litres it means that there is a requirement for both test certification and resource consent for containers over 5000 litres. If a container has a test certificate under HSNO it is not clear why Council also needs to assess the use under a resource consent. In addition the condition applies to an aggregate quantity in one or more portable containers. So if there are a number of smaller portable containers stored on a site then the 5000 litre threshold will be met but no test certificates required.
129. I question whether a trigger threshold is required in the rule given conditions 2- 5 which address potential adverse effects. I consider that the key condition in the rule is secondary containment which addresses potential adverse effects from spillage. Therefore I support the Horticulture New Zealand submission to delete condition 1 from Rule 5.162.

L P Wharfe

4 February 2013