SUBMISSION ON

Natural and Built Environment Bill and Spatial Planning Bill

19 February 2023

To: Environment Select Committee

Name of Submitter: Horticulture New Zealand

Supported by: Citrus NZ, Hawke's Bay Fruitgrowers' Association Inc., NZ Asparagus Council, NZ Kiwifruit Growers Inc., Onions NZ Inc., Strawberry Growers NZ, Summerfruit NZ, Tomatoes NZ, Vegetables NZ Inc., Potatoes NZ, Apiculture NZ

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Horticulture™ New Zealand
Ahumāra Kai Aotearoa

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Our submission

Horticulture New Zealand (HortNZ) thanks the Environment Select Committee for the opportunity to submit on the Natural and Built Environment Bill and the Spatial Planning Bill.

The HortNZ submission represents an industry wide view and is supported by the affiliated groups named in this submission. Many of these groups, have also developed individual submissions to highlight issues that are more specifically relevant to them.

HortNZ wishes to be heard in support of our submission. The details of our preferred amendments are set out in our submission below.

PART 1

HortNZ's Role

Background to HortNZ

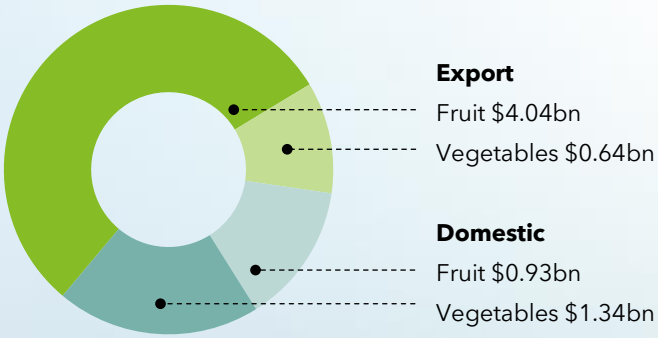
HortNZ represents the interests of approximately 5,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

There are approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain; and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



Industry value $6.95bn
Total exports $4.68bn
Total domestic $2.27bn

HortNZ's Resource Management Act 1991 Involvement

On behalf of its grower members HortNZ takes a detailed involvement in resource management planning processes around New Zealand. HortNZ works to raise growers' awareness of the Resource Management Act 1991 (RMA) to ensure effective grower involvement under the Act.

PART 2

Executive Summary

Legislation Transparency and Timeline

While HortNZ supports the need for RMA reform, our preference is for this legislation to take the time to gain more widespread buy-in amongst stakeholders, so communities and local government can transition from the RMA with confidence. As it stands, there is still considerable uncertainty around how the Natural and Built Environment Bill (NBA) and Spatial Planning Bill (SPA) will be implemented, especially since a draft National Planning Framework (NPF) has not been released.

We ask that this legislation is put through another Select Committee after this round of submissions and once the NPF is drafted. This will increase certainty about how these acts will work in practice. Given the information gaps, it is not yet clear whether this new system will truly be more effective than the old.

Amendments Sought to Natural and Built Environment Bill

The following is a high-level summary of the key amendments HortNZ seeks to the NBA.

Key Points

- **Include a definition for human health needs** based on the physiological needs of people related to resource use and to risks to human health from the natural environment.
- **Amend the outcome for urban and rural areas to provide for food production and supply** for New Zealand, as recommended by the Select Committee.
- **Include national food production and supply as a matter the NPF must address.** The domestic food system is nationally significant, requires cross-regional cooperation, and is essential to human health and well-being.
- **The ten-year consent timeline is not long enough to provide certainty for investment.** Activities that align with outcomes and allocation principles should be eligible for longer consent durations.
- **Align the assurance process for Freshwater Farm Plans with international practice,** especially the concepts of certification and audit, to reduce complexity and improve credibility. The bespoke system developed under Part 9A of the RMA does not align with assurance processes for private market standards and reduces the ability of farmers and growers to leverage off consumer demands to achieve regulatory outcomes for the benefit of New Zealand.

Futher Amendments

INTERPRETATION

- **Include a definition for sustainability, efficiency, and equity** in line with the Randerson report to clarify the resource allocation principles.

- **Include a definition for national significance** that gives parameters for proposals that meet this standard.

- **Amend the definition for contaminated land** to differentiate between baseline limits and contamination that poses an unacceptable risk to human health needs or the environment.

PART 1: PURPOSE AND PRELIMINARY MATTERS

- **Amend the highly productive land environmental outcome** to mirror the National Policy Statement on Highly Productive Land (NPS-HPL) by protecting highly productive land for primary production, rather than just ensuring its availability.

PART 3: NATIONAL PLANNING FRAMEWORK

- **Distinguish between environmental limit states, target states and use limits**. To support certainty in resource allocation methods.

- **Support the baseline limit and targets for improvement.** We support the systems focus on "maintain and improve".

- **Ensure non-regression**, except by limited exception. Where environmental improvements are achieved through the implementation of targets, the state limit must be shifted to the improved baseline state, to avoid back-tracking on progress.

- **We support a limited exception framework.** We consider the exception framework should be narrowed and the criteria made clearer. The limit in the Bill should not be shifted to the minimum acceptable state because the exception provisions would need to be widened, ultimately weakening the certainty of environmental protection.

PART 4: NATURAL AND BUILT ENVIRONMENT PLANS

- **We support a reduced number of plans.** Interacting with the resource management system under the current number of plans is complex and costly.

- **Reduce the cost and complexity for submitters**. The proposed process reduces representation, participation and the ability to appeal. The involvement of local people in planning processes leads to more enduring and place-specific outcomes.

- **We oppose requiring submitters to present all evidence at the time of submission.** This is an onerous requirement that creates a barrier to participation.

PART 5: RESOURCE CONSENTING AND PROPOSALS OF NATIONAL SIGNIFICANCE

- **Consent authorities should have regard to the degree to which an activity promotes system outcomes.** This will incentivise development in alignment with the purpose of this Bill.

Amendments Sought to Spatial Planning Act

The following is a high-level summary of the key amendments HortNZ seeks to the SPA.

- **Retain the requirement for the Regional Spatial Strategy (RSS) to be consistent with the NPF and with Natural and Built Environment (NBE) plans.** Integrated management requires consistent planning of national and regional priorities, targets, allocation regimes and management units. While the NPF delegates limit and target setting to NBE plans, there needs to be a feedback loop where the SPA is developed after limit and target setting, but before the detail of the NBA plan is finalised.

- **Add highly productive land to key matters included in the RSS** to integrate soil resource management with other spatial planning.

- **Separately specify areas for mitigation and adaptation in the RSS** to recognise the different land-use changes suitable under these two response strategies to climate change.

PART 3

Key Issues

The following section provides commentary on key themes of importance to our submission. This discussion is accompanied by **Appendix A**, which outlines the amendments HortNZ seeks in tracked changes.

1. A Food System for the Future

In the ideal future, Kiwis know where their next affordable meal is coming from and have confidence that their food was sustainability produced, mostly here at home in New Zealand. Urban and rural residents alike have pride in the fruits and veggies they buy and may even know some growers from the local farmers' market.

Their lettuce, carrots, or cherries grow on low-emissions, efficient farms where the frost fans whirring overhead and the heating systems keeping glasshouses warm are electrified. This capital-intensive transition to renewable energy was only possible because growers saw that the government had confidence in their future operations and gave them the license – through long resource consents – to invest in new technology.

Food production still happens on a large enough scale to feed the team of 5 million first, as well as the tens of millions more who buy our exports because they were sustainably produced and of the highest quality. There is also hyper-local food production across the urban-rural divide using innovative systems like vertical farming and hydroponics which make efficient use of available space because of flexible planning requirements. This idyllic future of low-emissions food production, food security, and connection to the food system is only possible if regulations specifically enable horticulture.

2. Climate Change

HortNZ supports the inclusion of the climate change adaptation and mitigation outcomes. The He Waka Eke Noa partnership, in which HortNZ participated, found that pricing alone was not the best approach for reducing emissions. An integrated approach where freshwater, biodiversity and emissions are managed together is preferrable.

2.1. Reducing emissions through diversification to horticulture

Diversification to horticulture presents an opportunity to reduce emissions while increasing food production, as identified by the Climate Change Commission.

The Climate Commission's advice report *Ināia tonu nei: a low emissions future for Aotearoa* includes the assumption in the Demonstration Path that 2,000 ha of land will be converted to horticulture per year from 2025.[1] The Commission expects that

1 Ināia tonu nei: a low emissions future for Aotearoa » Climate Change Commission (climatecommission.govt.nz) (p. 119)

this could increase if "barriers – such as water availability, labour, supply chains and path to market – are addressed". Opening more opportunities for conversion to lower emissions production systems and land uses, including horticulture, is listed as a critical outcome.[2]

3. Resilience

The resilience of our food supply could be strengthened, despite increasingly unpredictable weather, with produce production spread across multiple regions.

The Paris Agreement highlights the importance of food production and food security in the context of greenhouse gas emissions reduction targets, recognising the "fundamental priority of safeguarding food security …" and noting the need to adapt, foster resilience and lower emissions in a manner that does not threaten food production. This same consideration is relevant to resource management more broadly.

One of the Bill's five objectives in the opening explanatory note is to "better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change".[3] Local food production is a crucial strategy for climate adaptation as weather changes will disrupt agricultural production in other parts of the world.[4] It's also a mitigation strategy to reduce emissions from importing food products into the country.

As we saw during the COVID-19 pandemic, domestic food production is a safeguard in the face of global shocks to supply chains, which will only become more common with increasing climate-related disasters and pandemics. When we grow food locally, we ensure our ability to feed our own people, a goal that should be of utmost importance to any society.

Case Study: Auckland Anniversary Flood and Cyclone Gabrielle

The recent extreme weather events that flooded the North Island and saw crops rot or roll off the fields in the Pukekohe vegetable growing area are further evidence that New Zealand needs a resilient national food system.

The devasting impact of Cyclone Gabriel led to loss of life and destroyed homes, workers accommodation, facilities, and equipment. Entire crops were contaminated with flood waters, rendering them unsafe to sell or consume. Orchards saw apple trees torn from the ground and washed away. This type of devastating weather event will unfortunately only become more frequent and intense as climate change progresses.

2 https://www.climatecommission.govt.nz/our-work/advice-to-government-topic/inaia-tonu-nei-a-low-emissions-future-for-aotearoa/
3 Natural and Built Environment Bill 186-1 (2022), Government Bill Explanatory note – New Zealand Legislation
4 *Anthropogenic climate change has slowed global agricultural productivity growth*, Nature Climate Change 2021

4. Nutritious Food for Human Health

Food insecurity is pervasive and harmful in New Zealand, linked with poor physiological health outcomes and psychological distress.[5] A 2019 Ministry of Health study analysed household food insecurity among children in New Zealand and estimated that 19% of all children in New Zealand (174,000) live in food-insecure households.[6] There are complex social and economic reasons why people struggle to meet their nutritional needs. Addressing the issue of food insecurity will be even more difficult, however, if burdensome legislation impedes growers' work, reducing supply and forcing prices of healthy food to increase.

Beyond the first step of feeding communities, it is critical that we prioritise healthy, nutritious foods to improve health outcomes. New Zealanders diets aren't as healthy as they could be. Ministry of Health data indicates that only 33.5% of adults and 44.1% of children are meeting fruit and vegetable intake guidelines.[7] For families living in deprived areas, increases in fruit and vegetable prices compel them to substitute the purchase of healthier whole fruit and vegetables with cheap, energy-dense and nutrient-poor products.[8]

Importing fresh produce to New Zealand at scale is not viable because of our geographic isolation, so enabling local food production is the best way to improve access at the start of the supply chain. Vegetable growers, who grow over 80% of their product for domestic consumption, rely on access to highly productive land. KPMG's 2017 report on New Zealand's domestic vegetable production demonstrated that of the ten key vegetables that are staples of New Zealand diets, the vast majority are consumed or processed in New Zealand.[9] Should access to highly productive land for food production decrease, fruit and vegetable supply will fall with it.

4.1. Food production under pressure

There is a genuine risk that fresh vegetables could become less accessible in the coming years. In the past decade, the area of vegetable growing declined due to competition for land,[10] and price volatility increased.[11] 76% of vegetable growing area is managed by 115 businesses.[12] In the face of continuing pressures, the exit of only a few large players in the industry would have a significant detrimental impact on food supply.

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5 *The association of food security with psychological distress in New Zealand and any gender differences*, Social Science & Medicine 2011

6 Ministry of Health. (2019). *Household food insecurity among children, New Zealand Health Survey*

7 New Zealand Health Survey Data. Accessed: https://minhealthnz.shinyapps.io/nz-health-survey-2019-20-annual-data-explorer/_w_b6ac76b1/#!/explore-topics

8 Rush, E., Savila, F., Jalili-Moghaddam, S., & Amoah, I. (2018). Vegetables: New Zealand Children Are Not Eating Enough. Front. Nutr.

9 KPMG, 2017 New Zealand's domestic vegetable production: the growing story.

10 https://www.stats.govt.nz/indicators/agricultural-and-horticultural-land-use

11 https://www.stats.govt.nz/indicators/consumers-price-index-cpi?gclid=Cj0KCQjw6eTtBRDdARIsANZWjYYzWVW0UmAjVys4HN_NlOFzElbLZmxuI9ladZmkXB2K6nyffRSoQxQaAtz8EALw_wcB

12 NZGAP data

Otago University has recently modelled the potential health impacts of increased vegetable prices associated with RMA regulation preventing expansion of vegetable growing to keep up with population growth. This study found that using the health costs of a predicted increase in vegetable prices of 43 - 58 percent[13]t estimate would be a loss of 58,300 – 72,800 Quality Adjusted Life Years and health costs of $490 -$610 million across the population.[14]

Growers are passionate about providing healthy produce. To continue growing the healthy food we rely on, their businesses must be economically viable. Regulatory pressure is preventing the expansion of vegetable growing from keeping up with population growth, and regulatory uncertainty is preventing growers from accessing the water they need to grow their crops. Unless these regulatory pressures are reduced, costs will increase for consumers, with tangible negative health consequences.

It is critical that New Zealand's domestic food production and supply are prioritised when making the inevitable trade-offs required to meet environmental limits and outcomes. Food production and supply is a nationally significant issue which needs to be addressed at a strategic level given its centrality to human health needs.

5. Urban Planning for Food Access

Urban design and flexible building standards can enable access to both local, healthy food and development of resilient, efficient growing systems.

5.1. Food deserts and food swamps

For many years, the RMA was used by supermarkets as a tool to manipulate the food supply for commercial benefit without considering health impacts on people and communities. We support Part 4 Subpart 5 which states that trade competition is not a relevant consideration under this Act.

We recommend food production and supply is identified as a system outcome, to support RSS and NBE plans to enable urban and rural from that supports access to healthy food for people and communities.

While rural planning decisions have an impact on the supply and cost of production of healthy food, urban planning decisions influence food accessibility, with many areas in New Zealand developing food swamps – where people have high exposure to low-nutrition food – and food deserts – where there is limited access to healthy food.[15]

Urban environments and planning decisions have significant implications when it comes to addressing health outcomes associated with the supply of healthy food. Notably, the price of land values and zoning measures play an important role in the

13 https://www2.deloitte.com/nz/en/pages/primary/articles/pukekohe-hub.html
14 Cleghorn, C. 2020: The health and health system cost impacts of increasing vegetables prices over time, University of Otago
15 Sushil, Z., Vandevijvere, S., Exeter, D. J., & Swinburn, B. (2017). Food swampsby area socioeconomic deprivation in New Zealand: A national study. InternationalJournal of Public Health, 62(8), 869–877. https://doi.org/10.1007/ s00038-017-0983-4

location of food swamps. For example, lower rental costs and restrictions of business locations may encourage businesses to cluster in highly deprived areas. Additionally, public resistance to certain businesses in affluent areas may compound such spatial patterns.[16]

5.2. Flexibility for future growing systems

Most vegetables for domestic supply are grown outside in soil. This is the most efficient way to produce the volumes of food New Zealanders need to eat. There are other growing systems, such as glasshouses, covered cropping or vertical farms that may become more popular in future due to more extreme weather and constrained space. Currently, these growing systems are more often used to ensure year-round supply of higher value crops such as salad greens and tomatoes.

At present, natural resource allocation decisions to support our food system are about the availability of land and water, but planning frameworks also need to provide the flexibility for growers to uptake new growing systems like glasshouses or intensive indoor production as technology becomes more economically viable.

Developing indoor and covered growing systems are subject to restrictions on amenity and on building on highly productive land. Growers with indoor growing systems who consider relocation to access lower emissions heating then find that the RMA framework prevents these moves, with no recognition of the benefits of this growing system from resource efficiency, climate adaption and food production perspectives. Business moves that support system outcomes should be enabled and prioritised rather than unduly restricted.

6. Protecting Highly Productive Land

It is critical that highly productive land is protected for future generations from the trend of cumulative loss to urban and lifestyle development. Reverse sensitivity and competition for natural resources with urban communities are putting fruit and vegetable production at risk. Any protection of highly productive land from inappropriate subdivision must also recognise its value for primary production for current and future generations.

6.1. Protecting highly productive land from inappropriate development

Highly productive land is a finite and intergenerational asset that is under threat in New Zealand, most significantly due to urban development. 'Our Land 2021' states that the area of highly productive land that was unavailable for horticulture because it had a house on it increased by 54% from 2002 to 2019.[17]

The importance of highly productive land and the need to manage this natural resource strategically were clearly articulated in consultation on the NPS-HPL.

16 Wiki J, Kingham S,Campbell M. Accessibility to food retailers and socioeconomic deprivation in urban New Zealand. N ZGeog. 2019;75:3–11. https://doi.org/10.1111/nzg.12201
17 Our Land 2021. Ministry for the Environment.

Submitters wrote about the lack of clarity under the RMA, which means highly productive land is given inadequate consideration by local government:

> "The value of this land for primary production is often given inadequate consideration, with more weight generally given to other matters and priorities. This absence of considered decision-making is resulting in uncoordinated urban expansion over, and fragmentation of, highly productive land when less productive land may be available and better suited for urban use. This is preventing the use of this finite resource by future generations… National direction on highly productive land could provide councils with a clearer framework for managing this resource and assessing trade-offs between competing land uses …"[18]

Highly productive land needs to be protected from urban and lifestyle sprawl and enabled for primary production, so this land's productive potential is retained for future generations. Highly productive land is particularly valuable for supporting domestic food production and horticultural and arable crops that support New Zealand's transition to a low emissions economy.

18 Valuing Highly Productive Land: A discussion document on a proposed national policy statement for highly productive land, Ministry for Primary Industries, August 2019.

PART 4

Proposed Natural and Built Environment Bill

The following section provides commentary on key aspects of the NBA. This discussion is accompanied by **Appendix A**, which outlines the amendments HortNZ seeks in tracked changes.

7. Interpretation

Definitions in the Interpretation section should be aligned with accepted definitions in the planning standards and the RMA. Key definitions with particular importance to the management of natural and built environment from the perspective of the horticulture sector are discussed in the sections below.

7.1. Define human health needs

The concept of human health in the Bill is undefined, vague and could be interpreted on a variety of scales. The Bill refers to human health in numerous locations, including the following examples:

- Explanatory note: "The purpose of limits is to prevent the ecological integrity of the natural environment from further degradation, and to protect human health."
- Definition of environmental limit: "means a limit set for ecological integrity of (sic) human health"
- Definition of te Oranga o te Taiao: "the health of the natural environment" (which includes humans)
- Definition of well-being: "means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety"
- Purpose of setting environmental limits: "to protect human health."

A suggested definition for human health needs is provided in **Appendix A**.

The concept of needs is used inconsistently throughout the Bill and appears to differentiate between elements of well-being that are essential health needs and those that support our social, cultural and economic well-being. We support a distinction between the heath needs of people and their general well-being.

Maslow's hierarchy of needs ranks the most basic physiological needs, which can be used to clarify human health in the Bill. Of the basic human physiological needs, breath, food, water, sleep, and excretion are reliant on or supported by natural resources.

Of these matters, only food is not recognised in the NBA. Breath, water, sleep and excretion are all provided for through environmental outcomes and national direction for air, water, soil, housing and infrastructure. Primary production is accounted for, but industries of that description mainly produce goods for export, except for vegetable growing. Provision of natural resources to primary production generically does not assure that there will be a resilient domestic food supply.

Well-being, human health and needs must each be clarified to support limits and targets that manage the risk the natural environment poses to human health and allocation decisions that support the use of natural resources to provide for well-being (which includes health). The use of natural resources to support essential human health needs should be elevated above other well-beings, but current definitions do not support this resolution.

7.2. Define sustainability, efficiency and equity

Sustainability, efficiency and equity must be defined in the primary legislation to clarify the NPF and its function in fulfilling the purpose of the Act. The Randerson report provided additional descriptions for these terms, and we recommend that these are carried over into the interpretation section of the Bill. We also suggest that the Randerson definitions are amended to include providing for health needs.

7.3. Define national significance

The criteria for matters of national significance are not defined. The RMA includes a definition, which we recommend is carried over.

7.4. Align definition of Te Oranga o te Taiao with Māori worldview

We draw attention to and tautoko the submission of Te Awanui Huka Pak Limited, a Māori grower collective affiliated with HortNZ. In the Te Awanui submission, they seek a definition of Te Oranga o te Taiao that better reflects an integrated Te Ao Māori concept of the environment. We recognise and share their concern that te taiao, which typically encompasses "all aspects of the environment, including social, cultural, and economic" seems to be reduced in the Bill to only mean ecosystems.[19]

We seek consistency in the words used to describe the people involved in management of natural resources. The term Tangata Whenua is used in the RMA. Tangata Whenua and Mana Whakahaere are used in the NPSFM. In the Water Services Act, it is Mana Whenua who develop Te Mana o te Wai Statements. In the NBE it is iwi and hapū who have the intrinsic relationship with Te Taiao and develop Te Oranga o te Taiao statements. This lack of consistency creates confusion and inefficiencies in policy partnership. Te Awanui also raise concerns about limiting the recognition of the intrinsic relationship to Te Taiao to iwi and hapū, in accordance with tikanga.

19 Te Awanui Huka Pak Limited, "Submission to the Environment Committee on the Spatial Planning Bill and the Natural and Built Environment Bill," 03/02/2023 (p. 4)

8. Purpose and preliminary matters

8.1. Purpose

We support the concept of integrated management and the positive focus on system outcomes. The Bill prioritises environmental protection for limits and targets and focuses on the management of adverse effects. At the same time, it provides flexibility at the national, regional and management unit scale to direct use development to achieve outcomes which promote wellbeing.

8.2. System outcomes

8.2.1. REVISE OUTCOME FOR URBAN AND RURAL AREAS TO INCLUDE FOOD PRODUCTION AND SUPPLY

We seek an additional outcome for a resilient national food production and supply. This outcome would support national and regional planning to provide sufficient suitable land, water and assimilative capacity to support food production to meet the nutritional needs of people and communities. The Select Committee recommended an outcome for food production in their report, *Inquiry on the Natural and Built Environments Bill*.

This addition makes most sense within an integrated urban and rural outcome because food production often occurs on the urban-rural fringe where there is competition for resources. For example, there is often contention over allocations for municipal water supplies versus irrigation for crops. Some elements of the food system critical to supply, like processing, distribution and retail, occur within urban and industrial environments. These elements all need to be considered together to reduce friction, improve system resilience and provide for the associated human health outcomes of access to nutritious food.

8.2.2. REVISE OUTCOME FOR HIGHLY PRODUCTIVE LAND

The outcome for highly productive land should be amended to use the same language as the NPS-HPL by "protecting" highly productive land for primary production, rather than just ensuring its availability.

The policy intent within the NPS-HPL prioritises land-based primary production, which we support, but other primary production, such as glasshouses, indoor pig and chicken farms, and ponds on floodplains for freshwater aquaculture, are appropriate uses of highly productive land and should not be prohibited. The term "land-based" has the unintended consequences of disallowing the use highly productive land for primary production in a flexible and productive way, even when it is within environmental limits.

The NPF will incorporate the NPS-HPL but take precedence, so we suggest that the NBA protect highly productive land for all primary production, rather than just land-based primary production.

The wording "availability" in outcome (d) combined with the current broad definition of highly productive land, which is simply LUC I, II and III, provides little recognition of the value of soil resources and the importance of the activities they support. The outcomes do not distinguish between the most productive land or land most suitable for New Zealand's domestic food supply. This outcome, in combination with the current wording of outcome (c), will see the loss of the most productive land (LUC I used for vegetable growing) to urban expansion. Planners will be able to justify this loss of precious soil by leaving aside an ample supply of LUC III, which is unsuitable for vegetable growing but supports dairy farming, for example.

We see the need to change both outcomes. Outcome (c) should be explicit about the importance of a resilient food production and supply to support the health of people and communities, and (d) should protect highly productive land as a natural resource to be used for primary production for future generations.

A key purpose of outcome (d) is to retain highly productive land within rural zoning, to maintain its flexible use for primary production for future generations and retain the flexibility to transition to lower emissions food production, which is plant-based and generally requires highly productive land.

Climate change adaptation is necessary in the near future, and the outcome wording proposed by HortNZ will support decisions that recognise the importance of retaining our most productive land in primary production for future generations.

9. National planning framework

HortNZ supports the NPF as a means of providing integrated national direction. We support the proposed timeline from the NPF in terms of providing national limits, targets and allocation principles, to Regional Spatial Strategies and then NBE plans.

We consider that this framework should and will support allocation within management units and result in a consenting framework that provides some certainty for existing uses, while allowing re-allocation of natural resources over time to stay within use limits, meet limit states or target states and achieve outcomes.

9.1. Limits, targets and management units

9.1.1. CLARIFY LIMITS AND TARGETS

We support the systems focus on maintaining and improving ecological integrity. This framework, along with the spatial scale of management units, will allow for the management of cumulative environmental effects and direct use, development, and protection to achieve outcomes.

We consider that if the limit state in the Bill was shifted to the minimum acceptable state, as proposed by some submitters, the exception provisions would need to be widened, ultimately weakening the certainty of environmental protection in exchange for the hope of greater improvements.

We also consider there is confusion in the Bill due to use of the word "limit" to describe the environmental state and the constraints on resource use. We recommend the definitions for these terms are refined, to describe limit states, target states, and use limits.

In our view, the limit state should be the baseline and improved baseline. The use limit, which can relate to rules, consents and allocation framework, can be designed to either maintain limit states or achieve target states.

The conflation of these terms leads to confusion in the Bill over matters that are in the control of the planning system and those that are not. The planning system manages the setting and enforcement of use limits and the objective of use limits, but it does not have full control over the state of the environment, which may be impacted by external forces such as climate change and natural hazards.

Back-tracking on progress should be avoided. Limit states should be shifted to new and improved baseline states. Under this system, we support the use and reallocation of efficiency gains to maintain the limit state. Ehen target states are set to achieve environmental improvements, however, then those investing to achieve those target states should have certainty that allocation methods are designed as use limits for the long-term benefit of ecosystem health. If natural resources need to be re-allocated in a way that reduces the future improved baseline state, this decision should be required to use the interim limit process with justification in accordance with clause 43.

9.1.2. SUPPORT MANAGEMENT UNITS

We support the flexibility of management units. For example, maintaining soil health is essential for vegetable crop rotation. In the Waikato Regional Plan Change 1, crop rotations are restricted to sub-catchments much smaller than the freshwater management unit (FMU). The purpose of restricting the spatial scale of rotation is related to managing freshwater effects, but it is largely administrative. The administrative efficiency reduces the ability to manage soil health on some of New Zealand's most precious soils.

Similarly, under Plan Change 2 in the Manawatu-Whanganui Region, vegetable growers located around Lake Horowhenua are not allowed to rotate out of the lake catchment onto other highly productive land within the FMU. The reason is related to the administration of freshwater discharges. The small spatial scale reduces flexibility that could enable improved freshwater outcomes and undermines soil health in some of the most precious soils in the Lower North Island.

9.1.3. RESTRICT EXEMPTION FRAMEWORK

We accept that there may be some cases where interim limits below the baseline are required. However, we consider these to be only under extenuating circumstances, and we seek narrowing criteria under which interim limits allow a greater level of harm or an environmental state that is more degraded than the current state.

9.2. NPF must provide direction on certain matters

9.2.1. INCLUDE DOMESTIC FOOD SYSTEM

The domestic food system should be included within the NPF because the food supply chain works on a national scale. Consistency across regions is desirable to achieve food access outcomes, especially when some local communities might weigh reverse sensitivity concerns over national food security.

9.2.1.1. Alignment with the Purpose of the NPF

The inclusion of the domestic food system as a matter that the NPF must address aligns with Clause 33 (Purpose of the national planning framework), as this is both (a) (i), a matter of national significance and (ii), a matter for which national consistency is desirable.

9.2.1.2. Regional Plans Have Not Served Vegetable Growing

Regional regulations have consistently failed to recognise the national value of regionally based food production and the practical and regulatory difficulty of replacing lost vegetable production elsewhere in New Zealand.

Without national direction, we have little confidence that regional planning committees will provide for food. We have extensive experience of the failure of regional councils to do so to date. Case studies of examples of unworkable regulation are described below.

Case Study: Manawatū Whanganui Operative One Plan

The One Plan includes farm-based nitrogen discharge allocations based on the grass curve. These discharge allocations are sufficient to grow grass and insufficient to grow vegetables. The farm-based allocations have no relationship to achieving freshwater outcomes, and theoretically provide for the nitrogen load in the Lake Horowhenua catchment to increase. The result of the One Plan is that all dairy farms in the Horowhenua District have long-term consents, and sheep and beef farming is a permitted activity and can intensify as a Controlled Activity, whereas vegetable growing is not permitted and has no viable consenting pathway.

The outcome of the One Plan is that no existing vegetable growers in the Horowhenua target catchments, including the Lake Horowhenua catchment, can gain consents. The rules for land use change make establishing new green and brassica vegetable growing areas unviable.

Case Study: Waikato Notified Proposed Plan Change 1 (PC1)

The notified version of PC1 provided a controlled activity status for existing vegetable growers. However, it was unclear whether the plan would transfer the grand-parented nitrogen load from lessor to lessee. The rules for land use change would have made the expansion of many vegetable rotations uneconomic.

Case Study: Operative Canterbury Land and Water Plan

The outcome of the Canterbury Land and Water Plan is a transfer of the grand-parented nitrogen load from lessee to lessor, and a subsequent loss of the baseline vegetable growing area. The rules for land use change made the expansion of many vegetable rotations uneconomic and prevented crop rotation. This resulted in many growers being unable to consent to vegetable growing activities.

9.2.1.3. Competition for Resources in Peri-Urban Catchments

Horticulture, typically located on the peri-urban fringes, is more vulnerable to urban expansion than other primary sectors. This is borne out of the historical location of cities in proximity to highly productive land, for local food production needs, as an academic article summarises below:

> "Horticulture has been traditionally located close to labour supply and markets, which coupled with the lower costs of developing flat land and public concern about housing affordability, means horticultural land is typically more vulnerable to urban expansion than other rural sectors."[20]

Horticulture is generally restricted in its ability to move in response to urban expansion, due to regulation (particularly freshwater regulation), biophysical considerations (availability of soils, climate), and economic factors.

Due to the recognition of urban areas, housing supply and infrastructure services in the proposed environmental outcomes and as topics that the NPF must include, the resources for food production are otherwise vulnerable to loss if not also afforded priority at a national level. There is a risk that housing and municipal water will come at the expense of feeding the same people who live and drink water in urban areas, which will put the health of current and future generations at risk.

20 Curran-Cournane, Fiona & Carrick, Sam & Barnes, Michelle & Ausseil, Anne-Gaelle & Drewry, John & Bain, Isaac & Golubiewski, Nancy & Jones, Haydon & Barringer, James & Morell, Lance. (2021). Cumulative effects of fragmentation and development on highly productive land in New Zealand. New Zealand Journal of Agricultural Research. 1-24. 10.1080/00288233.2021.1918185.

9.2.2. POLICY RECOGNITION OF DOMESTIC FOOD SUPPLY UNDER THE RMA FRAMEWORK

In recent years, there has been some recognition of domestic food supply within policy in a belated response to the risks from poor resource management planning. Examples in the freshwater management context are listed below:

9.2.2.1. National Policy Recognition

- The Action for Healthy Waterways Section 32 Evaluation explains that, in respect of the National Policy Statement for Freshwater Management (NPSFM), intensification provisions specifically excluded horticulture for reasons including security of supply of vegetables to New Zealanders.
- The NPSFM 2020 includes policy for specified vegetable growing areas (in Pukekohe and Horowhenua) to recognise the importance of maintaining the domestic supply of vegetables, recognising the importance of this to the health of New Zealanders. However, this policy has been judicially reviewed and is at risk.

9.2.2.2. Regional Policy Recognition

Furthermore, resource management plans have increasingly been more directive on the regional and national significance of rural areas for food supply.

- Auckland Unitary Plan – Regional Policy Statement, Rural Environment Objective (1) rural areas make a significant contribution to the wider economic productivity of, and food supply for, Auckland and New Zealand. (2) Areas of land containing elite soil are protected for the purpose of food supply from inappropriate subdivision, urban use and development.
- Waikato PC1 decision – Policy 3 recognises the 'positive contribution to people and communities from commercial vegetable production' through providing for expansion (up to area limits and sub-catchments) to account for population growth. The intention of the policy was positive but overly complex. However, this policy has been appealed and is at risk.[21]
- Horizons PC2 decision – included having regard to the 'importance of maintaining food security for New Zealanders to support community well-being' in Policy 14-6. However, this policy has been appealed and is at risk.[22]
- Horizons One Plan 'Surface Water Management Values and Objectives' – lists 'domestic food supply' as a water use value (the management objective being that water is suitable for domestic food production). Despite this policy, the rest of the framework provided no consenting pathway to grow vegetables for domestic supply, so while water can be abstracted for this purpose, the land use activity to grow vegetables cannot be consented.
- Canterbury PC7 – includes a policy that recognises 'the importance of commercial vegetable growing for domestic food supply'. Given the over-allocation of many Canterbury catchments, and the grand-parenting allocation, the ability to expand vegetable growing remains uncertain. Vegetable growing areas have been lost due to extensive urban expansion following the Christchurch earthquakes.

21 www.mpi.govt.nz/dmsdocument/37065-Proposed-National-Policy-Statement-for-Highly-Productive-Land-Cabinet-paper

22 www.mpi.govt.nz/dmsdocument/37065-Proposed-National-Policy-Statement-for-Highly-Productive-Land-Cabinet-paper

Case Study: Pukekohe Integrated Catchment Management Plan - Kawenta

The NPSFM identifies the Pukekohe Specified Vegetable Growing Area and requires councils to have regard to the contribution of the specified growing area to the domestic supply of fresh vegetables and maintaining food security for New Zealand.

The recognition of the importance of Pukekohe in the NPSFM led to the establishment of Te Tautara o Pukekohe, a iwi-crown partnership between MPI, MfE, Ngati te Ata, Ngati Tamaoho, Waikato Tainui. Te Roopuu Mahi te Mahi kawenta working group was also established with MPI, MfE, Ngati te Ata, Ngati Tamaoho, Waikato Tainui Waikato Regional Council, Auckland Council, HortNZ and the Pukekohe Vegetable Growers Association.

Te Roopuu Mahi te Mahi has set a vision: *Te ora o te wai: a healthy freshwater environment flowing within and from Pukekohe where its wellbeing is protected and enhanced while supplying fresh vegetables for the health and wellbeing of the peoples of Aotearoa/New Zealand.*

Achieving the vision for Pukekohe will require investment and tradeoffs. The national recognition of the importance of this area has supported iwi, government and growers to commit to direct investment and tradeoffs in a way that will achieve the agreed vision over time.

9.3. Stronger link to Climate Change Response Act

The relationship to the Climate Change Response Act must be strengthened. The NPF is only required to be "not inconsistent" with national adaptation plan and emissions reduction plan (Schedule 6 Clause 21 Minister's decision). This weak direction misses the opportunity for the NPF (and RSS) to drive land use diversification to lower emissions food production, green infrastructure and urban form that will contribute to lesser emissions and greater resilience to a changing climate.

10. Natural and built environment plans

We are concerned that the new planning system will weaken community involvement and influence due to the combination of reduced representation on the planning committees compared with councils, narrower scope and increased requirements for submitters, increased scope for decision makers, and restricted appeal rights.

In HortNZ's experience, planners and decisionmakers sometimes misunderstand issues and create planning frameworks that cannot be implemented in practice. This is a particular issue for horticulture. As a smaller industry, it is supported by less knowledge and understanding within councils and planning professions compared with urban planning or pastoral farming activities.

We support processes that reduce the number of plans and streamline the planning process, but these cannot come at the expense of public participation and the ability to influence plans to achieve the best outcomes.

This is particularly important with NBE plans because the changes to the planning framework around allocations, limits and targets will be influential in consenting decisions. The planning framework will not have efficiency gains if many activities end up with discretionary status because they were not understood or adequately provided for at the plan making stage.

In our view, the provisions around submissions and appeal need to be more supportive of community participation. With limited appeal rights, there must be a greater level of scrutiny and proper process in the first stages of the planning process.

11. Resource consenting and proposals of national significance

11.1. Link consent duration to outcomes

We propose that criteria are established for consent duration that link to outcomes and allocation criteria. If an activity will help achieve outcomes like climate change mitigation and adaptation, it should be considered for a longer resource consent to encourage investment and future planning.

We are concerned that the ten-year duration for water consents does not provide sufficient certainty for new investment in diversification to horticulture as part of a transition to lower emissions food production. Ten years is simply not enough time to plan and implement major system changes, and it makes the investment riskier without knowing that activities will be allowed more than a decade out. This will make it more difficult for growers to access funding for future-focused upgrades without being able to tell financers that their work has license for more than ten years. Growers and councils alike will have to bear increased administrative burden of reconsenting the same activities on repeat on a shortened timescale. Constantly consenting will pull growers away from their first priority – producing healthy, high-quality produce – and exhaust councils' consenting officers.

12. Water and contaminated land management

12.1. Align freshwater farm plans with international standards

We support the intent of freshwater farm plans (FWFP) to provide more certainty for activities that were traditionally permitted but operate within acceptable standards. HortNZ believes, however, that this could be achieved through industry assurance programmes.

We are concerned that the assurance framework proposed in the FWFP is the only one of its kind and is not aligned with international practice. It would be more efficient to leverage existing market requirements.

We are also concerned that the approach does not include agreed-upon standards but relies on the judgement of qualified people. This harms the credibility of the system and reduces certainty.

This lack of efficiency is playing out now in the release of the FWFP regulations that support Part 9A of the RMA. These regulations and the assurance process supporting them are extremely complex and lack the credibility and accountability of the existing permitting and consenting process.

The NBA presents an opportunity to correct minor wording issues in Part 9A, that resulted in the design of regulations with more complex and environmentally uncertain outcomes.

12.1.1. ALIGN DEFINITIONS OF "AUDITOR" AND "CERTIFIER" WITH INTERNATIONAL PRACTICE

We seek amendments to the definitions of auditor and certifier to acknowledge New Zealand's obligations to legislate consistently with international practice.

We note the Section 3 (a) of the Standards and Accreditation Act 2015, the purpose of the Act, is to "make provision for standards and conformity assessment systems in New Zealand that—are consistent with international practice".

In this instance, we consider the obligation for consistency extends to the creation of regulations including these freshwater farm plan regulations.

We further consider that such an approach is required by statutory interpretation principles and with New Zealand accepted practice.

It is our opinion that the reasonable expectation of Parliament in passing Part 9A of the RMA was that the definition of the terms "audit" and "certification", which are not defined in the legislation, would have meanings in regulation consistent with the meanings of these terms in international practice.

Accordingly, the definitions of, and criteria for, 'auditor' and 'certifier' in any regulations made must be in line with the approach taken the under the ISO framework and fulfil New Zealand's obligation for consistency with international practice.

12.1.2. INCLUDE DEFINITION OF "FRESHWATER FARM PLAN STANDARD"

We seek the addition of the definition of freshwater farm plan standard to reflect the use of standards in international frameworks of assurance.

The ISO framework provides an international and robust framework for assurance against approved standards. The approval process for standards, can occur though a regulatory approval process under the RMA, and subject to review by judicial or another independent tribunal.

The Legislation Act 2019, Part 2 Section 64, "is sufficient authority for secondary legislation to incorporate one or more of (a) a standard, framework, code of practice, recommended practice, or requirement of an international organisation or national

origination." This would give sufficient authority to reference a framework for approving standards recognised in the regulations.

A recent example of flexible and workable regulatory equivalence in New Zealand is in Hawkes Bay with the latest decision from Hawkes Bay Regional Council on Proposed Plan Change 9 (PPC9) TANK. Schedule 30 allows for individual Freshwater Farm Plans, Catchment Collectives and Industry Programmes to achieve implementation of various policies and rules of PPC9, and to encourage collaboration between water users and farm operators.

In HortNZ's submission on the Exposure Draft of the Freshwater Farm Plan Regulations, we proposed a process for approval of industry assurance schemes that can demonstrate equivalent outcomes, through the use of approved standards and assurances processes accredited to internationally recognised ISO standards.

12.1.3. REVISE CONTENTS OF FRESHWATER FARM PLANS

We seek that the content of a freshwater farm plan can also be provided for through an approved freshwater farm plan standard. The standard is an approved document that defines the content for freshwater farms plans. The standard will be approved to demonstrate that it meets the requirements of content requirements of Part 9A of the RMA and the regulations and will be approved by regional council.

The approval process for the standard will be subject to review. We propose that the standard process endorsed by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) is used as a robust and independent method for standards endorsement to support regional councils in their decision making for the approval of standards.

The regional council will approve an equivalent standard, by assessing the standard against the farm plan content criteria in the Act and Regulations. To support an efficient assessment, we propose that the assessment criteria for the approval process have discretion limited to these matters:

> A standard endorsed by JAS-ANZ as meeting the farm plan content criteria in the Act and Regulations,
>
> Or
>
> A standard assessed by the regional council as meeting the farm plan content criteria in the Act and Regulations.
>
> Decision on the approval of standard is subject to Environment Court appeal.

Case Study: GAP EMS Private Standard for Erosion and Sediment Control.

The confronting images of soil washing through people's homes, businesses and a school at the foot of Pukekohe Hill in May 1996 galvanised the Pukekohe Vegetable Growers Association to initiate a project to minimise soil erosion that catalysed industry-led research, development of erosion and sediment control guidelines and the GAP EMS private standard for erosion and sediment control.

The GAP EMS private standard for erosion and sediment control, requires a risk-based approach where given block-scale risks, growers are directed to install sediment ponds, bunds, cut-off drains and buffers strips.

40,000 ha of horticultural land is registered with the GAP EMS. The GAP EMS private standard exceeds market and regulatory minimum requirements but reflects industry best practice. Leveraging off the market-based assurance process is efficient for growers and has more teeth than regulation because GAP assurance is required for growers to sell their produce.

The January 2023 flooding event was the biggest test of the Pukekohe erosion and sediment control devices since the 1996 storms. While there were sediment and vegetable losses in January 2023, the erosion and sediment devices performed well, significantly reducing the sediment and crop losses compared with the 1996 event. Seeing the devices performing to protect crops, soil and receiving waters, has built confidence of growers in the importance in investing in best management practices.

12.2. Revise contaminated land rules

The NBA shifts the responsibility of contaminated land remediation to the polluter. The Bill also emphasises that polluters are responsible for past or future contaminated sites.

The policy drafting should differentiate between legacy pollution and pollution that may occur in the future. We seek a change in definition that differentiates baseline state – which may or may not be contaminated – with contaminated land which meets a threshold for unacceptable effects on human health needs or the environment.

Landowners will be responsible, but others such as agrichemical companies could also face liability. The scope of the liability is unclear in terms of the recovered of costs that can be claimed under clause 426.

We do not support the proposal to prohibit resource users from taking out insurance for fines associated with offences under the Act. If resource users cannot access insurance, this could result in insufficient funds for addressing the remediation of sites.

13. Exercise of functions, powers, and duties under this Act

We are concerned about the concentration of power with the Minister. The level of discretion granted to a temporary appointee means that resource allocation could fluctuate with the political winds, contributing to an uncertain regulatory environment. We would prefer that the Minister's powers under this Bill are narrowed to essential functions.

PART 5

Proposed Spatial Planning Bill

The following section provides commentary on key aspects of the SPA. This discussion is accompanied by **Appendix A**, which outlines the amendments HortNZ seeks in tracked changes.

14. Regional Spatial Strategies

14.1. Integration of regional spatial strategies

HortNZ supports the requirement for the RSS to be consistent with the NPF and with NBE plans. Integrated management requires planning national and regional priorities, targets, allocation regimes and management units to achieve national, regional and local outcomes. When the NPF delegates limit and target setting to NBE plans, there must be a feedback loop where the SPA is developed after limit and target setting but before the detail of the NBE plan is finalised.

14.2. Include highly productive land in key matters

HortNZ seeks for highly productive land to be a key matter included in regional spatial strategies. Regional planning councils will already be required to map highly productive land under the NPS-HPL, and this mapping should be used in an integrated management approach with other mapping for planning purposes, such as that in the regional spatial strategies. Productive land most suitable for horticulture often sits in peri-urban areas that may not fit cleanly into urban or rural categories. Protecting that land from inappropriate use requires considering highly productive land directly, instead of just areas to be reserved for urban or rural use.

With the Bill's current emphasis on infrastructure, there is cause for concern that planners may prioritise urban expansion around existing transit corridors without regard to soil, climate, topography, or hydrology that may make those areas more suitable for other land-uses. Considering highly productive land is part of a more holistic planning approach.

14.3. Separately specify areas for mitigation and adaptation

HortNZ supports the inclusion of "areas that are suitable for land use changes that would promote climate change mitigation and adaptation" in the RSS.[23] These two needs – mitigation and adaptation – should be mapped separately rather than lumped together due to the different types of land use change involved in each.

For instance, areas that may be suitable for a land use change to horticulture may be mapped for mitigation because plant-based food production is a lower-emissions land use compared to other industries.

23 Spatial Planning Bill 187-1 (2022), Government Bill – New Zealand Legislation (Clause 17 (j) (ii))

Areas for adaptation may include places that are flood-prone or threatened by sea level rise and should thus consider managed retreat as climate change progresses. These areas may still be suitable for industry but too risky to house large populations of people. Investment in flood protection should prioritise human health needs – whether that means protecting dense populations, drinking water supply or domestic food production first.

Appendix A: Submission on Natural and Built Environment Bill

Without limiting the generality of the above, HortNZ seeks the following decisions on the NBA, as set out below, or alternative amendments to address the substance of the concerns raised in this submission and any consequential amendments required to address the concerns raised in this submission. Refer to the discussion section above to read more in depth reasoning.

Additions are indicated by bolded underline, and deletions by strikethrough text. Our most important points are highlighted in blue.

INTERPRETATION

Provision	Support/ oppose	Reason	Discussion section	Amendment sought
Definition: allocation method	Support in part.	Consent duration should reflect the ability of the activity to achieve outcomes.	Section 11	Allocation method means, except in Part 7, a method to determine the allocation of a resource, and includes (but is not limited to) the following: (a) consensus: (b) standard consenting process **and consent duration** (c) affected application pathway: (d) auction or tender
Definition: contaminated land	Support in part.	This definition does not make sense in the context of the Bill, where limits are set at baseline state. The vast majority of land in NZ is not contaminated but would be classified as such with a minuscule increase in contaminants under this definition given the broad definition of contaminants.	Section 12.2	contaminated land means land where a contaminant is present– (a) in any physical state in, on, or under the land; and (b) in concentrations that– ~~(i) exceed an environmental limit; or (ii)~~ pose an unacceptable risk to human health **needs** or the environment

		We would anticipate that contaminated land is a specific class of land, in which targets are set to achieve improvements over time. We have suggested amendments to the proposed definition. Alternatively, the definition from Section 2 of the RMA could be adopted.		
New definition: efficiency		Define and clarify the resource allocation principles in line with the Randerson report and providing for human health needs.	Section 7.2	**Efficiency means resources should be used efficiently to provide for human health needs and improve the overall wellbeing of people and communities. This includes enabling re-allocation of resources. All the benefits and costs of resource use should be considered, including their use and non-use value.**
Definition: environmental limit	Support in part.	Correct typo and expand to include human health needs, as defined in this table.	Section 7.1	environmental limit means a limit set for ecological integrity **or** ~~of~~ human health **needs**, as provided for in sections 39 and 40
New definition: equity		Define and clarify the resource allocation principles in line with the Randerson report and providing for human health needs.	Section 7.2	**Equity means the balance struck between recognising the investment of existing users and providing for new opportunities. Allocation systems should meet obligations under Te Tiriti, provide for human health needs, and improve the**

				overall well-being of people and communities. Users should pay a fair return for their use of scarce public resources.
New definition: human health needs		The Bill should clarify what aspects of human health are being managed, in terms of the Bill's purpose, environmental limits and outcomes. See section 7.1.1.	Section 7.1	**Human health needs means the physiological needs of humans, including safe drinking water and sanitation, nutritious food, adequate shelter and warmth, and protection from exposure to contamination that poses an unacceptable risk of chronic or acute illness.**
Definition: infrastructure	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	infrastructure means the structures, facilities and networks required to support the functioning of communities and the **human** health **needs** and safety of people and includes:
New definition: national significance		Define and clarify which matters are raised to national significance. The RMA Clause 142 (3) lists ten possible factors to determine whether a matter is a proposal of national significance.	Section 7.3	**National significance means any relevant factor, including whether the matter–** **(i) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or**

				(ii) **involves or is likely to involve significant use of natural and physical resources; or** **(iii)** **affects or is likely to affect a structure, feature, place, or area of national significance; or** **(iv)** **affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment; or** **(v)** **results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or** **(vi)** **involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or**

				(vii) **<u>will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions; or</u>** **(viii)** **<u>affects or is likely to affect more than 1 region or district; or</u>** **<u>relates to a network utility operation that extends or is proposed to extend to more than 1 district or region</u>**
Definition: natural environmental limit and limit	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	natural environmental limit and limit mean a limit set under section 39 to protect ecological integrity and human health **<u>needs</u>**
Definition: natural hazard	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	(b) includes soil that contains concentrations of naturally occurring contaminants that pose an ongoing risk to human health **<u>needs</u>**
New definition: sustainability		Define and clarify the resource allocation principles in line with the Randerson report and providing for human health needs.	Section 7.2	**<u>Sustainability means providing for the needs of present and future generations, consistent with the purpose and principles of the Natural and Built Environment Act.</u>**

Definition: Te Oranga o te Taiao	Support in part.	We seek consistency in the words used to describe the people involved in management of natural resources. HortNZ also echoes the concern of Maori grower collective Te Awanui Huka Pak Limited that "te Taiao", which typically encompasses "all aspects of the environment, including social, cultural, and economic" seems to be reduced in the Bill to only mean ecosystems.	Section 7.4	We seek a definition of Te Oranga o te Taiao that reflects integrated management. HortNZ seek reflection on the use of the terms iwi and hapū, in accordance with tikanga. Also, we are concerned that different terms are used in other related legislation and existing national planning instruments, and this may create uncertainty and conflict.

PART 1: PURPOSE AND PRELIMINARY MATTERS

Provision	Support/ oppose	Reason	Discussion section	Amendment sought
Clause 5 (c) well functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes…	Support in part.	The Environment Committee recommended that an outcome specifically provide for food production. We recommend adding a rural outcome accounting for food production and supply to balance the primarily urban outcomes listed under Clause 5 (c), and to promote the health and well-being of people and communities, which rely on the allocation natural resources to support a resilient food system.	Section 8.2	**(iv) provide for resilient national food production and supply that supports the human health needs of people and communities**
Clause 5 (d) the availability of highly productive land for land-based primary production	Support in part.	Highly productive land should be protected, rather than just made available, to be consistent with the NPS-HPL. Otherwise, urban sprawl will proliferate at the expense of local food access.	Section 8.2	the ~~availability~~ **protection** of highly productive land for ~~land-based~~ primary production, **both now and for future generations**
Clause 5 (i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.	Support	Like food production, infrastructure services are related to human health needs and other elements of the well-being.	Section 7.1	Clause 5 (i) the ongoing and timely provision of infrastructure services to support the **human health needs and** well-being of people and communities.

Clause 6 Decision making principles	Support in part.	Decision making in a situation of information uncertainty requires balance. Favouring assumes a preference when the word "apply" provides for a more nuanced response which is no less directive in the outcome sought. The decision-making principles should not prevent best judgement decisions.		(2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, all persons exercising functions, duties, and powers under this Act must **apply** ~~favour~~ – (a) caution; and (b) a level of environmental protection that is proportionate to the risks and effects involved.

PART 3: NATIONAL PLANNING FRAMEWORK

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Clause 37 Purpose of setting environmental limits	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	The purpose of setting environmental limits is– (a) to prevent the ecological integrity of the natural environment from degrading from the state it was in at the commencement of this Part: (b) to protect human health **needs**.
Clause 40 Form of environmental limits	Support in part.	Expand to include human health needs, as defined in the Interpretation table. Include criteria wherein limit states are set at the baseline but change to reflect the new present state when improvements are achieved. Without this provision, target states may be eroded after they are achieved if environmental improvements are reallocated to future resource users. This would undermine the purpose of targets. To achieve outcomes, it will be necessary to redistribute the resource use limit. That reallocation, however, should be deliberate and	Sections 7.1 and 9.1.1	(1) An environmental limit must be expressed as relating to the ecological integrity of the natural environment or to human health. (2) Environmental limit~~s~~ **states** must be set as– (a) a minimum biophysical state for a management unit; ~~or~~ **Environmental use limits must be set as:** (b) the maximum amount of harm or stress to the natural environment that may be permitted in a management unit. (3) Environmental limit~~s~~ **states** relevant to ecological integrity must be set to reflect– (a) the state existing in a management unit at the commencement of this Part; or **a future improved state.**

		differentiate between redistribution of the use limit to achieve well-beings and return of part of the use limit to achieve environmental target states.		(ai) Environmental **use** limits relevant to ecological integrity must be set to reflect– (b) the amount of harm or stress occurring to the natural environment in a management unit at the commencement of this Part**, or the amount of harm or street occurring to the natural environment in a management unit associated with a future improved state** (4) An environmental limit may be– (a) qualitative or quantitative: (b) set at different levels for different management units: (c) set in a way that integrates more than 1 of the aspects of the natural environment listed in section 38(1). (ci) An environmental limit must be expressed as relating to the ecological integrity of the natural environment or to **impact of the natural environments on** human health **needs**.
Clause 42 Interim limits for human health	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	(1) The national planning framework may, in prescribing environmental limits in relation to human health **needs**, also prescribe 1 or more interim limits in conjunction with that environmental limit.

				(2) Subsection (1) applies if the responsible Minister is satisfied, in relation to the specified aspect of the natural environment,— (a) that its state existing at the commencement of this Part is degraded below the level required to protect human health **needs**; or (b) that the existing harm to, or stress on that aspect of the natural environment is too great to provide for the protection of human health **needs**.
Clause 45 Essential features of exemption	Support in part	We seek that the criteria for limits be narrowed.	Section 9.1.1	(1) An exemption from an environmental limit must be designed to result in the least possible net loss of ecological integrity that is compatible with the activity proposed. (2) The activity must be **of national or regional benefit, serve human health needs and** provide public benefits that justify the loss of ecological integrity… **(5) The interim limit state must include a target state and use limit, designed to achieve an improved target state over time.**
Clause 50 Minimum level targets	Support in part.	Expand to include human health needs, as defined in this table. Needs, as originally written in this clause, is vague.	Section 7.1	(2) (b) the risk that the state of the natural environment poses to human health **needs**, including the health of future generations; and

				(a) whether **current and** future generations will be able to use the natural environment to provide for their **human health** needs and well-being; and
Clause 54 Management units	Support in part.	We support the use of management units. There may be areas of specific focus within management units, but the remaining spatial element should be large enough to provide flexibility. Where it is desirable to have a single management unit, we must take care that the management of other domains – like catchments, soil units, highly productive land units, airsheds, or biodiversity units – are not undermined.	Section 9.1.2	**(5) A management unit must be relevant to the domain it seeks to manage,**
Clause 55 Matters relevant to setting management units (1) (a)	Support in part.	This clause should be revised. Limits and targets with the mixed definitions in the Bill are not always connected one for one. It is the limit state and the use limit or the target state and the use limit that are connected.	Section 9.1.1	(1) (a) are sufficient to enable **use** limits and their associated **limit states or** target~~s~~ **states** to meet the purposes set out in sections 37 and 47 respectively;

Clause 58 National planning framework must provide direction on certain matters	Support in part.	HortNZ seeks the inclusion of the food production and supply as a matter which the NPF must include. The national food system is a matter of national significance that affects human health, well-being, and climate mitigation and adaptation.	Section 9.2	The national planning framework must include content that provides direction on: **(f) enabling national food production and supply to supports the human health needs of people and communities**
Schedule 6, Clause 19 Consideration by board of inquiry. What the board must consider	Support in part	Use more direct language to support the implementation of the national adaptation plan and the emissions reduction plan through the NBA and SPA.	Section 9.3	(3) The board must ensure its recommendations on the NPF proposal are– (a) in accordance with… (b) ~~are not inconsistent with an~~ **give effect to the** emissions reduction plan or national adaption plan identified as relevant to this Act or the Spatial Planning Act 2022.

PART 4: NATURAL AND BUILT ENVIRONMENT PLANS

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Clause 104 Plans must be consistent with regional spatial strategies	Support	We support the need for NBE plans to be consistent with RSS, although there is also a need for limits and targets developed with NBA plans to feed into Regional Spatial Strategies.	Section 14.1	Retain, and require a change to the RSS to require an integrated approach with the development of NBA plans.
Schedule 7, Clause 21 Evidence to be provided with enduring submissions	Oppose in part.	It is onerous to require submitters to provide all evidence at the time of submissions and creates a barrier to participation.	n/a	Persons making an enduring submission must provide evidence either– (a) with the submission; or b) during the primary submission period; or **(c) at the hearing.**
Schedule 7, Clause 34 Who may make primary submission	Oppose in part.	It is onerous to require submitters to provide all evidence at the time of submissions and creates a barrier to participation.	n/a	(3) A primary submission must– (a) be in a form (if any) approved for the purpose by the chief executive; and (b) identify each provision of the plan being submitted on; and ~~(c) include all the evidence that the submitter intends to submit in support of the submission~~

PART 5: RESOURCE CONSENTING AND PROPOSALS OF NATIONAL SIGNIFICANCE

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
154 How to decide which activity category applies	Support in part.	The Bill must distinguish between limit state and use limit. The state limit or target state is the outcome the framework seeks and predicts but is not within control of the planning framework. Clarifying that the use limit is the matter that is relevant for consenting supports a more certain approach for applicants and regulators.	Section 9.1.1	(4) An activity is a prohibited activity if– (a) it would breach a **use** limit specified in the national planning framework or a plan (either taken in isolation or, if allowed to be carried out in addition to consented activities that have existing use rights or are permitted)… An activity is a discretionary activity if– (a) it is unclear or unknown whether the activity will breach a **use** limit, not achieve **limit states or** target~~s~~ **states** or not contribute to the relevant outcomes; or (b) it is likely to breach a **use** limit, not achieve **limit states or** target~~s~~ **states**, or not contribute to the relevant outcomes
204 Public notification	Support in part	We are concerned that the framework may result number of activities being processed as discretionary, and the requirement for public notification would make this inefficient.	Section 10	A discretionary activity must be processed with public notification ~~unless~~ **if** a plan or the national planning framework states that ~~no~~ notification ~~or~~ limited notification is required. **A discretionary activity may be processed with public notification as determined by the consenting authority.**

Clause 223 Consideration of resource consent application	Support in Part	The NPF and NBE plans should incentivise consent applicants to invest in actions that promote outcomes (e.g. reduce greenhouse gas emissions).	Section 11	Matters that consent authority must have regard to (2) The consent authority must have regard to– **(h) the degree to which the activity promotes system outcomes**.
Clause 223 Consideration of resource consent application	Support in part	It is important to differentiate between the limit and target state, and the natural resource use associated with maintaining or achieving those states. The actual state of the environment is not within the control of councils. At the management unit scale, it is reasonable to link the resource state limit and resource use limit. These relationships are not precise, however, and it is not possible to know that the limit or target state will always be achieved. Consents should focus on whether that activity is within the determined use limit.	Section 9.1.1	Matters for which consent must not be granted (11) The consent authority must not grant a resource consent if– (a) it is contrary to– (i) an environmental **use** limit or **use** target…
Clause 232 Particular conditions that may be included in resource consent		Consent duration should be matter that can be considered in consents. We do not support a blanket ten year consent duration for water permits. The duration should	Section 11	232 Particular conditions that may be included in resource consent (**6) Consent duration**

		depend on the activity and the matters in clause 223.		
Clause 275 Duration of certain resource consent activities	Oppose	Ten years does not provide enough certainty for business owners looking to innovate or grow. The Bill could better achieve its purpose by intentionally supporting investment in activities that are aligned with achieving outcomes through longer consents.	Section 11	275 Duration of certain resource consent activities ~~10 year resource consent duration for certain activities~~ (1) The maximum duration of a resource consent that may be issued by a consent authority for any of the following activities is ~~10 years~~ **35 years**: (a) the taking, using, damming, or diverting of water excluding open coastal water and geothermal water: (b) the discharge of any contaminant or water into water: (c) the discharge of any contaminant onto or into land in circumstances that may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water: (d) a land use activity that would otherwise contravene section 22(1)(a) and (b) (discharge relating to water). **(1a) The default maximum consent duration for any activity listed in (1) is 10 years. Longer duration consents may be granted if the activity is subject to clause 275, or where the applicant demonstrates, the activity will contribute to: the promotion of**

				system outcomes. The consent duration for activities that meet criteria (1a), are subject to clause 233 and 266.
Clause 277 Circumstances when consent conditions can be reviewed	Support in part.	Expand to include human health needs, as defined in this table.	Section 7.1	(3) A consent issued by a territorial consent authority may also be reviewed if there are exceptional circumstances where– (b) there is risk of significant harm or damage to human health **needs**, property, or the natural environment. (4) A consent issued by a regional consent authority may be reviewed if– (c) there is new information that identifies significant harm or damage to human health **needs**, property, or the natural environment… (7) A plan may require a review of a condition of a consent that relates to the duration of the consent if– (a) there are exceptional circumstances where– (ii) there is a risk of significant harm or damage to human health **needs**, property, or the natural environment; or… (c) there is new information that identifies significant harm or damage to human health **needs**, property, or the natural environment.

Clause 287 Transferability of water permits	Support in part.	The proposed provisions, like the current RMA, are structured such that transfers are only enabled if a regional plan includes a transfer rule. If not, then there is no pathway to do so. Transferring consents supports efficiency and is consistent with the allocation principles.	n/a	(2) A holder of a water permit granted other than for damming or diverting water may transfer the whole or any part of the holder's interest in the permit **as a permitted activity**— (a) to any owner or occupier of the site in respect of which the permit is granted; or (b) to another person on another site, or to another site, if both sites are in the same catchment (either upstream or downstream), aquifer, or geothermal field, and the transfer— ~~(i) is expressly allowed by a plan; or~~ (ii) has been approved by the consent authority that granted the permit on an application for transfer under subsection (5).

PART 6: WATER AND CONTAMINATED LAND MANGEMENT – FRESHWATER FARM PLANS

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Subpart 2—Freshwater farm plans Clause 400 Interpretation Definition: auditor	Oppose in part.	We seek the addition of (b) to the definition of "auditor" to acknowledge New Zealand's obligations to legislate consistently with international practice. Such an approach is required by statutory interpretation principles and is New Zealand accepted practice.	Section 12.1.1	auditor means a person who— (a) is appointed under section 217K; ~~and~~ **or** **(b) is employed by an approved conformity assessment body; and** (c) meets the criteria prescribed in regulations made under section 217M(1)(h)
Subpart 2—Freshwater farm plans Clause 400 Interpretation Definition: certifier	Oppose in part.	We seek the addition of (b) to the definition of "certifier" to acknowledge New Zealand's obligations to legislate consistently with international practice. Such an approach is required by statutory interpretation principles and is New Zealand accepted practice.	Section 12.1.1	certifier means a person who— (a) is appointed under section 217K; ~~and~~ **or** **(b) is employed by an approved certification body; and** (c) meets the criteria prescribed in regulations made under section 217M(1)(h)
Subpart 2—Freshwater farm plans Clause 400 Interpretation		We seek the addition of the definition of freshwater farm plan standard to reflect the use of standards in	Section 12.1.2	**freshwater farm plan standard means a set of publicly available specified requirements approved by Regional**

New definition: freshwater farm plan standard		international frameworks of assurance.		**Council as equivalent to 217F (1) (a)-(e).**
Subpart 2—Freshwater farm plans Clause 404 Contents of freshwater farm plan	Support in part.	We seek that the content of a freshwater farm plan can also be provided for through an approved freshwater farm plan standard – a regional council-approved document that defines the content for freshwater farms plans.	Section 12.1.3	(1) A freshwater farm plan must— (a) identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and (b) specify requirements that— (i) are appropriate for the purpose of avoiding, remedying, or mitigating the adverse effects of those activities on freshwater and freshwater ecosystems; and (ii) are clear and measurable; and (c) demonstrate how any outcomes prescribed in regulations are to be achieved; and (d) comply with any other requirements in regulations. **Or** (2) **A freshwater farm plan must meet a Regional Council approved freshwater farm plan standard.** **(3)** See section 410 (which states when a specified instrument prevails over a freshwater farm plan).
Subpart 2—Freshwater farm plans	Support in part.	We seek that the certification step must be based on the outcome of the audit. This approach is aligned to	Section 12.1	(2) The certifier must certify a freshwater farm plan if the certifier is satisfied that the plan complies with the

Clause 405 Certification of freshwater farm plan		international practice of assurance, whereby certification is on the basis of a conformity assessment (audit) of the freshwater farm plan against the content requirements of Clause 404 (1) or (2).		requirements in section 404 **and section 406**.
Subpart 2—Freshwater farm plans Clause 406 Audit of farm for compliance with certified freshwater farm plan	Support in part.	We seek that section Clause 404 (1) or (2) (content requirements) is integral to the audit (conformity assessment) of the freshwater farm plan. This is consistent with international practice of audit and certification. We also seek the addition of the word "certifier" to reflect the fact that first generation freshwater farm plans will be subject to audit before they are certified.	Section 12.1	(1) A farm operator must— (a) arrange, within the prescribed time frame, for an auditor to audit the farm for compliance with the certified freshwater farm plan **and section 404**; and… (4) After completing the audit, the auditor must— (a) provide the farm operator with a report of the auditor's findings on whether the farm achieves compliance with **section 404 and** the certified freshwater farm plan **(if applicable)**; and (b) if the auditor finds that the farm achieves compliance, provide that report to the relevant regional council **and certifier**. (5) If the auditor finds that the farm fails to achieve compliance with the certified freshwater farm plan **and section 404**,— (a) the auditor's report— (i) must include reasons why the farm failed to achieve compliance; and

				(ii) specify reasonable time frames by which compliance must be achieved; and (iii) may include recommendations on how compliance may be achieved; and (b) the auditor must give the farm operator a reasonable opportunity to respond to the report; and (c) the auditor must, after the prescribed period has expired, provide the farm operator**, certifier,** and the relevant regional council with a final report…

PART 6: WATER AND CONTAMINATED LAND MANGEMENT – CONTAMINATED LAND

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Clause 419 Landowner obligations when land is contaminated	Support in part.	Some contaminated land is legacy, and landowners will not always know the land is contaminated.	Section 12.2	(1) If land is contaminated to the extent that it poses an unacceptable risk to human health or the environment, and **the landowner reasonably knows the land is contaminated,** the landowner must–
Clause 426 Actual and reasonable costs may be recovered from polluter	Support in part.	The action that could be taken under this clause and scale of cost recovery is uncertain.	Section 12.2	If the identity of a polluter of contaminated land has been confirmed through the local authority's execution of an enforcement order, a local authority or the EPA may, in accordance with Part 11, recover from the polluter the actual and reasonable costs that the authority or EPA has incurred in taking action under this subpart **to manage risk to an acceptable level.**

PART 11: COMPLIANCE AND ENFORCEMENT

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Clause 766 Insurance against fines unlawful	Oppose	Delete clause 766 which prohibits resource users from taking out insurance for fines associated with offences under the Act. This is particularly an issue in the context of contaminated land, where insurance may be an appropriate way of enabling those liable for pollution to manage risk of contaminated sites, and fund remediation.	Section 12.2	Delete clause 766.

SPATIAL PLANNING BILL

Provision	Support/ oppose	Reason	Discussion Section	Amendment sought
Clause 4 How regional spatial strategies promote integration	Support in part.	HortNZ supports that the NPF, NBE plans, and RSS must all be consistent. However, we seek that RSS are developed after limits and targets are set in the NPF but before NBE plans are developed to achieve environmental limits and targets and design allocation methods that best deliver system outcomes.	Section 14.1	(1) A regional spatial strategy achieves the purpose described in section 3(b) by having effect under the following legislation, as follows and to the extent provided for in that legislation: Natural and Built Environment Act 2022 (a) **use limits and allocation methods within the** ~~a~~ natural and built environment plan under the Natural and Built Environment Act 2022 must be consistent with the relevant regional spatial strategy (see section 97(b) of that Act): **(b) the regional spatial strategy must give effect to the limit states or target states identified within the national planning framework of the natural and built environment plan under the Natural and Built Environment Act 2022**
Clause 17 Contents of regional spatial strategies: key matters	Support in part.	HortNZ seeks the inclusion of highly productive land in regional spatial strategies in order to integrate	Section 14.2	(1) The key matters referred to in section 16(1)(c)(i) are as follows… **(k) areas of highly productive land based on the criteria in the National**

		management of soil resources with other spatial planning.		**Policy Statement on Highly Productive Land**
Clause 17 Contents of regional spatial strategies: key matters Part 1 (j)	Support in part.	HortNZ supports specifying areas with potential for land use change for climate mitigation and adaptation, but we think these are two distinct categories that should be mapped seperately.	Section 14.3	(1) The key matters referred to in section 16(1)(c)(i) are as follows… (j) areas that are vulnerable to the effects of climate change both now and in the future, and measures for addressing those effects and increasing resilience in the region, including indicative locations for… (ii) areas that are suitable for land use changes that would promote climate change mitigation**; and** **(iii) areas that are suitable for land use changes that would promote climate change** adaptation: