SUBMISSION ON

Natural Environment Bill

13 February 2026

To: Environment Select Committee
Name of Submitter: Horticulture New Zealand
Supported by: Blackcurrants NZ, Hawke's Bay Vegetable Growers Association, NZ Avocado, NZ Apples & Pears, NZ Kiwifruit Growers Inc, Onions NZ, Potatoes NZ, Pukekohe Vegetable Growers Association, Strawberry Growers NZ Inc, Summerfruit NZ, Tomatoes NZ, Vegetables NZ Inc.

Contact for Service:

Kate Scott
Chief Executive
Horticulture New Zealand
PO Box 10-232 WELLINGTON
Ph: 027 223 6080
Email: kate.scott@hortnz.co.nz

Horticulture™ New Zealand
Ahumāra Kai Aotearoa

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Our submission

Horticulture New Zealand thanks the Environment Select Committee for the opportunity to submit on the Natural Environment Bill.
HortNZ wishes to be heard in support of our submission.

PART 1

HortNZ's Role

Background to HortNZ

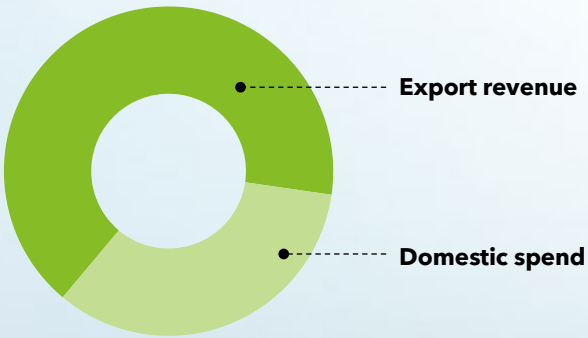
HortNZ represents the interests of approximately 4,300 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

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 $7.54bn
Farmgate value $4.89bn
Export revenue $4.99bn
Domestic spend $2.55bn

Source: HortNZ Annual Report 2025

PART 2

Executive Summary

Key Areas of Concern

HortNZ strongly supports the need for resource management reform and a new system that is simpler, less expensive and less time-consuming while also achieving better outcomes for communities, development and the environment. We are encouraged that one of the objectives for the new planning system was "to make it easier to get things done by…enabling primary sector growth and development", including horticulture.[1]

While we support the intent of the reform, we are concerned that the drafting of the Natural Environment Bill (NEB) does not deliver on that intent. In many instances, the NEB as drafted will result in worse outcomes for growers than the Resource Management Act (RMA) 1991. HortNZ would welcome the opportunity to work with the Government on the matters discussed in this submission.

Our key areas of concern are:

1. **Commercial vegetable production:** Under the RMA, freshwater planning processes have left vegetable growing with difficult or impossible consenting pathways in key regions. Commercial vegetable production is essential to New Zealand's domestic food supply and the ability of New Zealanders to access healthy food. To avoid recreating the adverse consequences of the past system, and to manage the transition period when operative plans still apply, the NEB needs to provide a clear pathway for national direction for vegetables.

2. **Permitted activities in overallocated catchments:** It is also important that the primary legislation enables the solutions anticipated in national direction. National direction will not be able to make vegetable growing a nationally permitted activity with a certified freshwater farm plan if the primary legislation says there cannot be any permitted activities in overallocated catchments.

   The Bill's stance on permitted activities in overallocated catchments could also create unintended consequences for fruit growing. Orcharding and berry growing are currently permitted activities throughout the country under the RMA. Under the NEB, fruit growing would become a discretionary activity in overallocated catchments, at significant cost to growers.

3. **Access to water:** Irrigation is essential for the fruit and vegetable sectors to continue to grow and boost export value as well as meet domestic demand. Collective water storage will be a key enabler for climate change adaptation, resilience and growth. The design of allocation frameworks needs to enable the use of this stored water and reward efficient water use. Integration is needed between the Planning Bill (PB) and the NEB to achieve these aims.

[1] Natural Environment Bill, Explanatory Note.

The ability to easily transfer water is key to enabling the use of collective water storage. Transfer enables a system where water users are incentivised to be more efficient. However, HortNZ does not support market-based allocation or natural resource levies which would amount to a tax on water for growers.

4. **Link spatial planning to resource allocation:** Planning for the spatial extent of land uses also requires planning for whether and how those land uses can take place – including the ability to discharge contaminants and abstract water. Enabling the *use* of highly productive land for primary production is of particular interest to our sector.

5. **Consenting:** This submission discusses how to deliver on the Government's intent to make consenting easier and less expensive, with less compliance. HortNZ's concern is that the NEB, as drafted, would create higher regulatory burden for growers, and significant amendments are needed to achieve the desired outcomes of reform.

Key Outcomes Sought

Our most important suggested amendments to the Bill's framework are:

1. Add goals to "enable the supply of fresh fruit and vegetables" and "to enable activities of national importance".

2. Prioritise the use of freshwater farm plans to manage farm-scale effects. Freshwater farm plans should guarantee permitted activity status.

3. Prioritise catchment-scale resource caps over property-level ones.

4. Require public consultation on action plans.

5. Bring RMA ss 70 and 107 changes into the NEB to allow an activity to be permitted or consented below bottom lines where effects will reduce over time, particularly in sub-cl 32(a)(ii).

6. Significantly reduce the costs and compliance associated with permitted activities under the NEB and PB.

7. Reintroduce controlled activity status to provide a certain and clear consenting process for activities with a minor effect on the environment.

8. Delete clauses related to market-based allocation and delete cl 313 "Regulations relating to natural resource levies".

9. Amend the allocation framework of the NEB so that it provides a pathway to prioritise allocation based on national direction, including for primary production on highly productive land.

10. Provide for rootstock survival water in cl 20.

11. Include collective water storage in the definition of long-lived infrastructure.

PART 3

Submission

1. Horticulture and Resource Management

Horticulture is a high value land use which produces healthy food for New Zealanders and the world. The sector contributes $7.54 billion of value between the domestic and export markets,[2] on less than 0.1% of New Zealand's land area.[3]

Resource management has a direct and significant impact on the ability of growers to grow the food that feeds our population and the world. Growers rely on the ability to secure resource consents or operate as a permitted activity for many parts of their operations. The process of consenting is often prohibitively expensive, time consuming and difficult.

2. National Importance of Domestic Food Supply and Water Storage

2.1. Domestic vegetable production is an essential industry

Vegetable growing produces healthy food for New Zealanders. More than 80% of the vegetables grown domestically are sold in New Zealand, and those that are exported (primarily processed vegetables, onions and potatoes) add economic and environmental sustainability to farming systems while also contributing to the government's ambition to double export value.

It is not possible to import fresh vegetables at the scale or price necessary to meet our population's nutritional needs due to our country's geographic isolation and the perishable nature of vegetables.[4] We, as a country, are reliant on our vegetable growers' hard work to feed ourselves, and our families, nutritious food. Vegetable growing for domestic food supply has national, as well as regional, benefits due to the centralised nature of the fresh vegetable supply chain.

The vegetable growing industry is becoming increasingly consolidated. In the face of continuing regulatory pressures, the exit of only a few large players in the industry would have a significant and detrimental impact on food supply and regional employment.

2.2. Fruit production is a major export contributor and provides domestic food supply

Fruit production is the leading contributor to New Zealand horticulture's export value, with kiwifruit exports surpassing $4 billion and apples and pears surpassing $1.2 billion in 2025.[5]

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[2] HortNZ Annual Report 2025.
[3] StatsNZ. Agricultural and horticultural land use. 15 April 2021. Accessed online 23/12/25.
[4] Agchain. July 2023. Sensitivity of Domestic Food Supply To Loss In Vegetable Growing Production In Specified Vegetable Growing Areas.
[5] MPI. Situation and Outlook for Primary Industries. June 2025. (p. 42)

Many fruit crops are primarily grown for domestic supply, including nectarines, peaches, plums, and citrus. While fruit can be imported, our domestic industries are key to our national food security by providing a local supply independent of trade agreements or international shipping.

Fruit growing has not been subject to the same regulatory challenges related to freshwater discharges as vegetable growing. This is because fruit trees, vines and bushes are perennial, do not require crop rotation, and are widely accepted to have low environmental impact. However, resource management decisions about water allocation and the ability to secure water storage are highly consequential for the continued operation and growth of these industries to feed New Zealand and earn premium export value.

2.3. Water storage for security and export growth

Growers require a reliable supply of water for irrigation, frost protection, washing and processing produce. Over 90% of horticultural crops are produced under irrigation.[6]

Enabling water storage and controlled releases of water is one strategy for climate adaptation, to manage the compounding problems of increasing drought frequency and severity, limited water availability and declining freshwater quality and flow regimes for ecosystem health. Storage, whether in-stream, off-line, or through managed aquifer recharge, will be a critical part of the solution to ensure there is enough water for current and future users, wider communities and ecosystem flows.

3. Goals to Enable Food Supply and Resolve Unworkable Rules

Issue: Primary legislation needs to provide a pathway for national direction for vegetables to resolve freshwater consenting issues threatening New Zealand's domestic food supply. A new goal or provision in the NEB for activities of national importance could be similarly applied to enable collective water storage.

Outcomes sought:

- Introduce a goal to "enable the supply of fresh fruit and vegetables", and
- Introduce a goal to "enable activities of national importance".
- If these goals are not introduced, introduce specific clauses related to the national significance of vegetable production and collective water storage.
- Amend cl 17 to provide a transition pathway for existing land uses that are not currently permitted but where they are allowed by a national instrument.

[6] MPI. Situation and Outlook for Primary Industries. June 2025. (p. 50)

3.1. Pathway for National Direction for Vegetables

HortNZ supports the Government's repeated signalling that national direction for vegetables will be provided under the new resource management system. This is of critical importance because unworkable freshwater rules continue to threaten the supply of vegetables for New Zealanders.

Under the RMA, freshwater planning processes have left vegetable growing with difficult or impossible consenting pathways in key regions through Waikato Plan Change 1 (PC 1) and Horizons Plan Change 2 (PC 2). For an extensive discussion of these regional plans, refer to HortNZ's July 2025 submission on National Direction for Vegetables.[7] An updated summary of these plan changes is included in Appendix B of this submission.

To avoid recreating the adverse consequences of the past RMA system, and to manage the transition period when operative plans still apply, the NEB needs to provide a clear pathway for national direction for vegetables.

3.2. The horticulture industry is committed to environmental improvements

The horticulture industry has shown a sustained effort and commitment to reducing environmental effects of production. Our industry is driving good practice adoption with farm plans to continue this work into the future and meet the growing expectations of markets, consumers and regulators. These efforts are discussed in detail in HortNZ's July 2025 submission on National Direction for Vegetables.[8]

HortNZ supports a risk-based approach to managing the environmental effects of vegetable growing with audited and certified farm plans and minimum standards. We also support existing legislation providing a national approval pathway for industry organisations to audit and certify freshwater farm plans for their members. This approach offers a credible and efficient mechanism to achieve freshwater objectives.

Over 90% of growers use Good Agricultural Practice (GAP) schemes to meet market and regulatory requirements for food safety, employment law and environmental management. GAP is an integrated farm planning solution for growers – one system for many outcomes. To maintain GAP certification, growers are regularly audited against a standard. Failure to comply can lead to a loss of certification and inability to sell product, which is the incentive to maintain compliance.

When requirements change, GAP can update or develop new standards in a modular approach. For example, NZGAP has developed the Environment Management System (EMS) add-on for farm environment plans and freshwater farm plans. The EMS add-on is currently under review to align with updated freshwater farm plan regulations and updated industry codes of practice.

[7] HortNZ. July 2025. Submission on National direction for vegetables.
[8] HortNZ. July 2025. Submission on National direction for vegetables.

HortNZ is updating the industry codes of practice for nutrient management and erosion and sediment control.[9] In the updated codes of practice, risk-based minimum practices provide consistency and integration between actions on farm or orchard, audit criteria, and regulatory expectations.

3.3. The need for hooks for national direction for vegetables

Regional councils have struggled to provide for nationally important activities with local effects. National direction will ensure councils provide for the national contribution of vegetable growing to domestic food supply, while managing local environmental effects in an equitable manner. National direction for vegetables aligns well with the Government's intent for more national standards under the new system – it can even provide a first case study.

Because the new resource management system is designed to work like a funnel, where the higher order documents guide the development of the lower order ones, it is critical that each higher stage of the funnel is clear about the direction of travel before a lower order one is developed.

The NEB requires that the Minister must have regard to the Act's goals when making a national direction instrument. Thus, a specific goal for vegetables is needed to enable national direction to then be developed.

Currently, the goal "to enable the use and development of natural resources within environmental limits" could conceivably provide for national direction for vegetables, but only loosely. A clearer goal that explicitly seeks to enable the supply of fresh fruit and vegetables would provide greater certainty that national direction can then be developed to provide for domestic food supply.

3.4. Recognition of fruit growing

While fruit growing has not historically been subject to the same unworkable freshwater rules as vegetable growing, amendments made to PC 1 (still subject to final Environment Court decisions) have unintentionally required fruit growing to gain a discharge consent where it is a permitted activity everywhere else in the country.

There is a risk that the NEB's stance on permitted activities in overallocated catchments will also create a higher regulatory burden for fruit growing than the status quo, similar to the unintended consequence of PC 1. Orcharding and berry growing are currently permitted

[9] HortNZ. (2026). Codes of Practice.

activities throughout the country under the RMA. Under the NEB, fruit growing would become a discretionary activity in overallocated catchments, at significant cost to growers.

Fruit's inclusion in the enabling goal would recognise the sector's national contribution to the domestic supply of healthy food. Fruit growing's low environmental impact should also be recognised to help councils make activity-appropriate rules at the regional level.

This approach is precedented. The Natural and Built Environment Act 2023 included, "enabling supply of fresh fruit and vegetables" as a matter the national planning framework would need to address (NBEA, s129(g)).[10]

Outcome sought: Introduce a goal to "enable the supply of fresh fruit and vegetables".

3.5. National importance

The NEB does not currently provide a pathway for activities to be designated as nationally important. Matters of national importance were a feature under s 6 of the RMA. Reintroducing the concept of national importance would provide justification for enabling national direction for specific activities, such as commercial vegetable production and collective water storage.

We suggest that when a piece of national direction is created, it may or may not explicitly state that an activity is nationally important. For instance, commercial vegetable production is nationally important for domestic food supply. Storing tyres outdoors has a national standard but would not be considered an activity of national importance.

The PB provides a power for the Minister to make decisions on matters "of national interest" in spatial plans[11], so national interest or significance is a concept that could also be used in the NEB.

Outcome sought: Introduce a goal to "enable activities of national importance".

Table 1: Analysing the need for goals to provide for national standards

Clause	Commentary	Proposed Amendments
28 Purposes of key instruments	This clause states that "The purpose of national policy direction is to…particularise the goals and direct how they must be achieved" and to "help resolve conflicts between the goals" of	n/a

[10] Natural and Built Environment Act 2023 No 46 (as at 23 December 2023), s 129
[11] Planning Bill. Schedule 2. Subclause 19(1)(b).

Clause	Commentary	Proposed Amendments
	the Planning Act and the Natural Environment Act.	
68 Role and application of national instruments	This clause states that "The role of national instruments is to provide centralised direction…including by standardising approaches to how activities are enabled and their effects regulated." National direction for vegetables could clearly fit within this role for national instruments by standardising provisions for vegetable production through standards that regulate the local effects of the activity.	n/a
11 Goals	A goal that can be achieved through national direction for vegetables is needed, to give effect to clause 28.	All persons exercising or performing functions, duties, or powers under this Act must seek to achieve the following goals subject to sections 12 and 69… **(aa) to enable the supply of fresh fruit and vegetables; and** **(ab) to enable activities of national importance**.

3.6. Specific clause for national importance

The term "national importance" is not currently used in the NEB, although the concept was well established within the RMA framework. The only reference to "national significance" in the NEB refers to regulations made specifically to enable aquaculture in cl. 311(1)(c)(ii). Clause 311 allows specific regulations to be made for aquaculture when "the matters to be addressed by the proposed regulations are of regional or national significance".

This concept could be utilised more widely within the Bill to provide for other nationally significant or important activities beyond aquaculture, such as commercial vegetable production and collective water storage. While HortNZ's preferred solutions are amendments to the Bill's goals and national direction, clauses mirroring 310 and 311 could be drafted for commercial vegetable production or collective water storage.

Alternative outcome: Introduce specific clauses related to the national significance of vegetable production and/or collective water storage, in line with the clauses which provide for regionally or nationally significant aquaculture activities.

Table 2: New clauses for commercial vegetable production that could be applied to collective water storage

Clause	Proposed Drafting
New clause: **Regulations amending natural environment plans in relation to commercial vegetable activities and allocation process**	**(1) The Governor-General may, by Order in Council, on the recommendation of the Minister responsible for agriculture,–** **(a) amend provisions in a natural environment plan that relate to the management of commercial vegetable activities; and** **(b) amend a natural environment plan to establish rules for the allocation of resources for commercial vegetable activities.** **(2) Regulations made under subsection (1) may amend more than 1 natural environment plan at the same time, including natural environment plans that relate to different regions.** **(3) An amendment made under subsection (1)–** **(a) becomes part of the operative natural environment plan as if it had been made under Schedule 3 of the Planning Act 2025; and** **(b) may be amended–** **(i) under this section; or** **(ii) in accordance with Schedule 3 of the Planning Act 2025; or** **(iii) under any other provision of this Act.**
New clause: **Conditions to be satisfied before regulations made under section XX**	**Ministerial considerations** **(1) The Minister responsible for agriculture must not recommend the making of regulations under section XX, unless the Minister–** **(a) has first had regard to the provisions of the natural environment plan that will be affected by the proposed regulations; and** **(b) has carried out consultation on the proposed regulations in accordance with this section; and** **(c) is satisfied that–** **(i) the proposed regulations are necessary or desirable for the management of commercial vegetable activities in accordance with the Government's policy for commercial vegetable production; and** **(ii) the matters to be addressed by the proposed regulations are of regional or national significance; and** **(iii) the natural environment plan (as amended by the proposed regulations) meets the requirements in subsection (2); and**

Clause	Proposed Drafting
	(d) has prepared an evaluation report under section 110 for the proposed regulations and had particular regard to that report when deciding whether to recommend the making of the regulations. **(2) The natural environment plan (as amended by the proposed regulations)–** **(a) must continue to give effect to the following, without conflicting with or duplicating them:** **(i) any national policy direction:** **(ii) any national standard:** **(iii) relevant provisions in a regional spatial plan:** **(iv) relevant provisions in an action plan; and** **(c) must be consistent with the regional spatial strategy.**

3.7. Resolving conflict with existing plans

As discussed above and in Appendix B, existing regional plans currently before the Environment Court –PC 1 and PC 2 – have caused significant uncertainty for growers. Until final court decisions for PC 1 and PC 2 are determined, the ability for vegetable growers to continue operating remains unclear. In addition, if these plans' final provisions are unworkable for vegetable growers, it is not clear how vegetable growing is meant to proceed during the transition period to the new resource management system.

HortNZ's understanding is that existing district and regional plans prepared under the RMA will continue to have legal effect during the transition period to the NEB and PB (once passed). The legal effect of existing plans will only cease once the transition ends, on a date set by Order in Council, which cannot be earlier than 31 December 2027. The transition period is expected to extend until around 2031.

For growers, this means that they may be living under the provisions of PC 1 and PC 2 until 2031. This would add to more than seven years of uncertainty they've already experienced under their regions' plan processes. Clarity is urgently needed through national direction to give councils clear direction about how to manage vegetable growing during the transition period and while existing plans under the RMA have legal effect.

Any ministerial intervention before final decisions are made on PC 1 and PC 2 needs to be based on industry input and an understanding of the potential solutions that are being developed in Environment Court.

However, if problematic provisions from existing plans are brought into the new system either during or after the transition period and national direction for vegetables has been developed to resolve the issues, a directive is needed for the national direction to override the regional rules. This already exists in the NEB for discharges through sub-cl 21(2), but another provision is needed to override provisions related to land use. Clause 17 "Restrictions on land use" could provide this pathway, as illustrated in Table 3 below.

Outcome sought: Amend cl 17 to provide a transition pathway for existing land uses that are not currently permitted but where they are allowed by a national instrument.

Table 3: Transition pathway for national direction to override plans with unworkable consenting pathways for vegetable growing

Clause	Commentary	Proposed Amendments
17 Restrictions on land use	This clause allows certain existing activities if the activity was already permitted, continues to have similar effects, and the activity has been continuously carried out.	(1) A person must not use land in a manner that contravenes a national rule, a rule in a plan, or a rule in a proposed plan that has legal effect unless– (a) the use is expressly allowed by a permit; or (b) the use is expressly allowed by a water services standard; or (c) the use is allowed by **section 25; or** **(d) the use is allowed by a national instrument.**

4. Managing Environmental Effects

Issue: The drafting of the NEB does not achieve the "funnel" approach intended by the Government regarding the prioritisation of action plans, freshwater farm plans and non-regulatory methods before controls are placed on the extent of land use or farm-scale inputs or outputs.

Outcomes sought:

- Prioritise the use of freshwater farm plans to manage farm-scale effects.
- Prioritise catchment-scale resource caps over property-level ones.
- Require public consultation on action plans.
- Set action plans at the catchment or multiple catchment scale.
- Amend cl 59 to prioritise quality assured, measured data over modelled data.

4.1. Difference between Government intent and drafting for resource caps

HortNZ's understanding is that the funnel of the new resource management system is meant to manage environmental effects using tools in the following order:

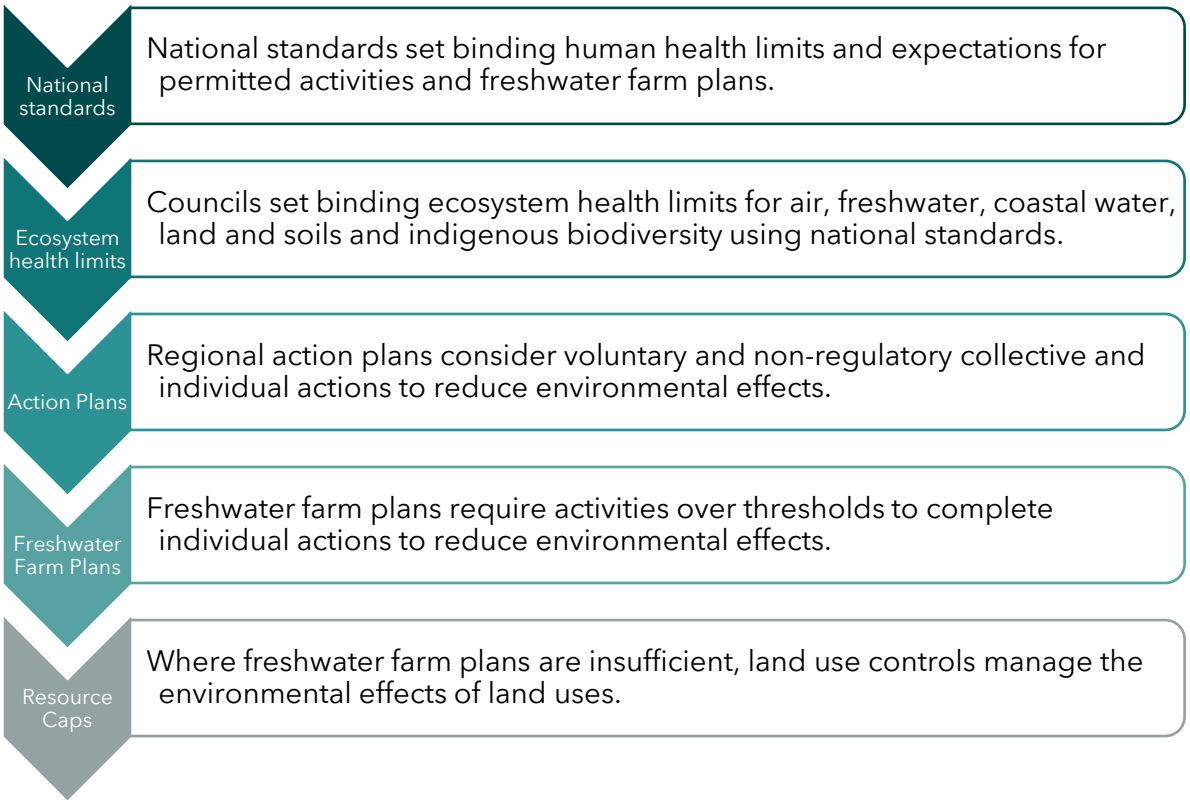

Figure 1: Government intent for managing environmental effects

However, with close reading, this is not how the Bill is currently structured. The Bill directs councils to consider resource caps first through cl 60, before action plans or freshwater farm plans, which is a significant departure from the Government's stated intentions. The drafted approach, if passed into law, would create significant problems for horticulture. This is illustrated in Figure 2 and Table 4.

HortNZ questions whether the Government's intention was to give first preference to an action plan approach in cl 60 instead, given that this clause contradicts cl 64 and cl 106, which show a preference to non-regulatory methods in an action plan, freshwater farm plans, and operative rules.

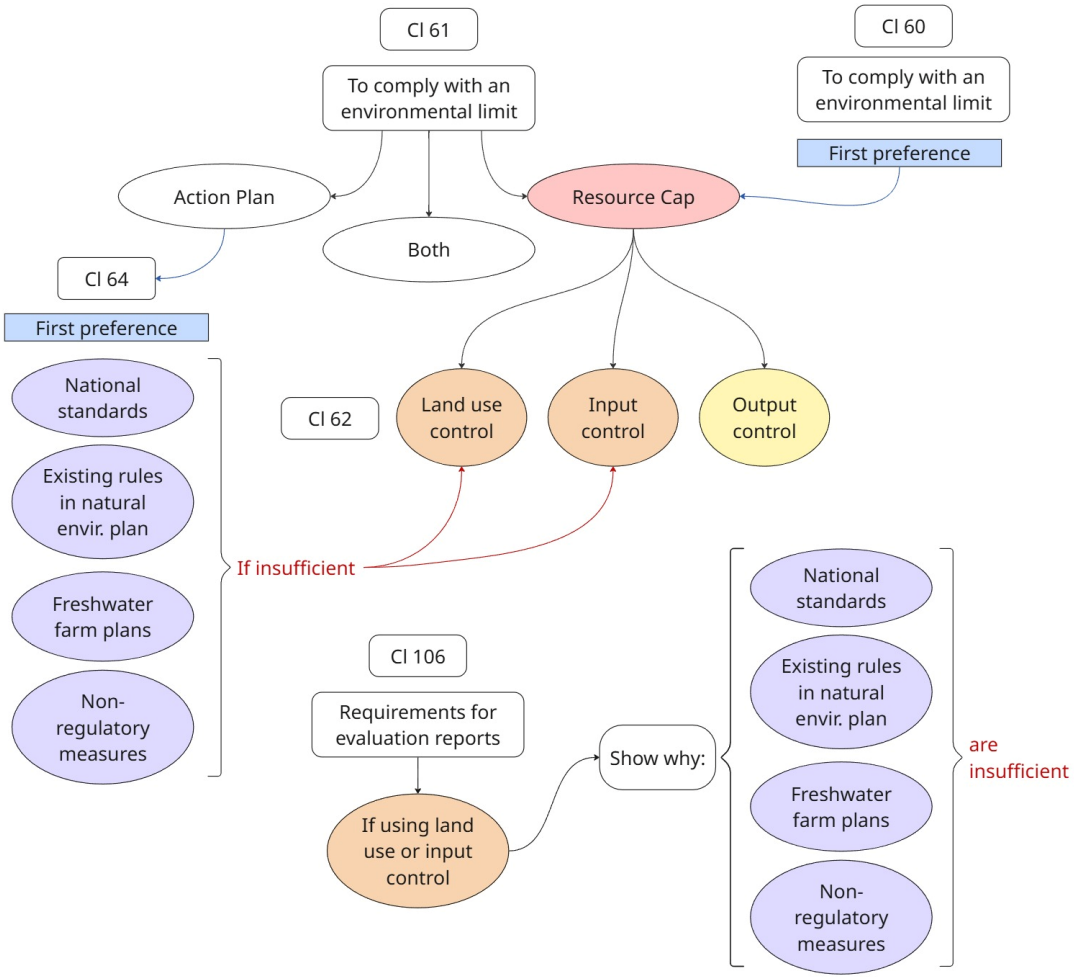

Figure 2: Contradiction between cl 60 and preference for non-regulatory methods

4.2. Farm plans, not farm-level resource caps

The NEB provides for freshwater farm plans to be used for activities above certain thresholds to require individual actions to reduce environmental effects. However, it is unclear how freshwater farm plans tie into activity status, the consenting process or consideration of resource caps outside of an action plan approach.

HortNZ supports catchment or FMU-scale environmental limits, but we do not support farm-scale land use limits, input limits or output limits, all of which the NEB calls "caps on resource use".

Clause 62 describes the meaning of a "cap on resource use". While HortNZ understands that the Government's intent may be for this clause to apply at the catchment level, the examples given within the drafting (the extent of an activity, amount of fertiliser that may be applied, or annual nitrogen discharge cap) are all farm-level controls, which are potentially problematic for horticulture, particularly vegetable growing.

Based on the current drafting, it appears that these caps could include a cap on the geographic extent of vegetable or fruit production, a cap on the amount of fertiliser a grower can apply, or discharges that can leave a farm.

Input controls, in particular, are challenging from a practical perspective, and often have unintended consequences, including on the profitability and viability of a farm system. Different crops (particularly vegetables, where multiple varieties are grown in rotation) have different nutrient needs required to reach an economically sustainable and marketable yield. Inputs vary across a season and between seasons. A single input cap does not provide the flexibility necessary to enable the production of fresh vegetables.

Industry codes of practice help growers make decisions about matching inputs to crop needs to minimise leaching. Horticulture has the *Nutrient Management* and *Erosion and Sediment Control* Codes of Practice which have sector-appropriate, rigorous, evidence-based mitigations to manage effects on freshwater.[12] HortNZ recently reviewed and updated these standards to form the basis of freshwater farm plans for the horticulture sector.

Farm-scale resource caps are a barrier to crop rotation, a vegetable growing practice that has been used globally for over a thousand years to improve soil health and reduce pest and disease pressure. Crop rotation involves changing which crop is grown on a piece of land over time, often including pasture, arable or cover crop phases. Crop rotation in New Zealand also involves changing which paddocks of land are under cultivation across a mix of owned, leased and swapped land. In planning practice, crop rotation can be mischaracterised as frequent change in land use and in the level of inputs and outputs, even if the total sum of area in vegetable growing remains the same.

Trends in nutrient losses cannot be measured with certainty at the property scale. However, these can be measured at the catchment level, which is the scale at which limits are currently set. Because of these practical difficulties, HortNZ's strong preference is that environmental effects from horticulture are managed through freshwater farm plans and that resource caps are set at the catchment level, not at the scale of individual properties.

Outcomes sought:

- Prioritise the use of freshwater farm plans to manage farm-scale effects.
- Prioritise catchment-scale resource caps over property-level ones.

Table 4: Prioritising action plans and freshwater farm plans as an environmental management approach

Clause	Commentary	Proposed Amendments
60 Tools for managing resources to which limits apply	HortNZ strongly opposes the requirement in subclause 60(3) that a council must give first preference "to only using a cap on resource use" unless the council determines it is not effective or feasible to do so. Farm-scale resource caps are often unachievable for horticulture or do not allow for crop rotation, as discussed in	(3) A regional council must give first preference to only using a**n** **action plan approach** ~~cap on resource use~~ unless– (a) the council considers, in accordance with any criteria prescribed in regulations, that it is not effective or feasible to do so; or

[12] Codes of Practice | Horticulture New Zealand – Ahumāra Kai Aotearoa. Accessed 6/1/26.

Clause	Commentary	Proposed Amendments
	this submission. HortNZ does, however, support resource caps at the catchment scale.	(b) national standards direct otherwise. ~~(4) Without limiting~~ **~~subsection (3)(a)~~**~~, a regional council may consider that a cap on resource use is not feasible because the resource is affected by a range of different causes.~~
61 National standards may require action plan, cap on resource use, or both	HortNZ does not support farm-scale resource caps. It is a concerning that farm-scale input or land use controls could be set outside of an action plan approach, without assessment of the methods that need to be considered first under clause 64, such as national standards and freshwater farm plans.	For the purpose of ensuring compliance with an environmental limit or remedying a breach of an environmental limit, national standards– (a) may require a regional council to manage a natural resource use by preparing and implementing an action plan, a cap on resource use, or both; and **(ab) before requiring a cap on resource use, the Minister must be satisfied that the following measures will not be sufficient to achieve the purpose of the national standards:** **(i) a risk-based management approach** **(ii) existing rules** **(iii) freshwater farm plans and** **(iv) non-regulatory measures.** (b) may specify– (i) the process for setting a cap on resource use; and (ii) how and when a cap on resource use must be set; and…
62 Cap on resource use	This clause describes caps on resource use, including the extent of an activity, input controls, or output controls. The examples given (the "amount of fertilizer that may be applied" and "annual nitrogen discharge cap") are farm level controls.	Provide examples for catchment-level, rather than farm-level caps.

Clause	Commentary	Proposed Amendments
	HortNZ does not support farm-scale land use limits, input limits or output limits, particularly at the property scale. We support these limits at the catchment scale. HortNZ's concern is that the directive language used in the NEB will potentially require farm-scale land use controls, input controls, and/or output controls before (or in combination with) action plans and farm plans.	
63 General content of action plans	HortNZ supports an action plan approach, and catchment-scale limits. We do not support the use of farm-scale resource caps if those are included in subclause 63(1)(d). Explicit recognition of the role of non-regulatory measures in action plans is needed.	An action plan may set out matters relating to– (a) decision-making on applications for natural resource permits; and (b) the review of conditions of permits; and (c) the preparation of rules in a natural environment plan~~; and~~ (d) caps on resource use. (3) A regional council may include in its action plan any other intervention it considers would assist in achieving the purpose of the action plan, **including non-regulatory interventions** and/or interventions by other authorities, entities, or persons under other legislation.
64 Considerations before action plans can include controls on land use or inputs	HortNZ supports that action plans must not include land use or input controls unless other methods are deemed to be insufficient (national standards, existing rules, freshwater farm plans and non-regulatory measures). However, output controls should also not be used by the same logic. It is also concerning that farm-scale input or land use controls	(2) An action plan must not include controls on land use**, outputs** or inputs unless the regional council **is** satisfied that the following measures will not be sufficient to achieve the purpose of the action plan… **(2a) An action plan must not include controls on land use, outputs or inputs unless the regional council has completed**

Clause	Commentary	Proposed Amendments
	could be set outside of an action plan approach without that consideration. The use of resource caps should also be assessed against the criteria of cl 56, which includes the needs or aspirations of communities for the economy, society and the natural environment.	**an assessment of the controls against section 56(b) and 56(e).**
106 Requirements for evaluation reports	The requirement to examine and explain why non-regulatory methods in an action plan, freshwater farm plans, and operative rules are insufficient to ensure compliance with a limit before imposing land use or input controls is supported. However, this seems to contradict clause 60, so that clause should be amended. This clause should also consider output controls.	(4) If the proposed plan includes a land use control**, output control** or input control for the purpose of ensuring compliance with an environmental limit, the evaluation must examine and explain why the following measures are not sufficient to ensure compliance with the limit…

4.3. Public consultation on action plans

HortNZ's understanding is that the NEB does not provide for public consultation on action plans. Rather, the Government's intent is that natural environment plans, rather than action plans, have the "teeth" to impose rules on individuals. However, permit authorities are required to have regard to "any relevant matter specified in an action plan" [sub-cl 156(1)(f)] when making a natural resource permit application decision. Unless action plans are open for public consultation, there is no opportunity for those who will eventually need permits to comment on what permit conditions may be specified in action plans.

Regional councils are required to implement action plans through their natural environment plans, where action plans are consistent with national direction and spatial plans [sub-cl 97(2)(a)(iv)]. The way that action plans are implemented through natural environment plans will be subject to public comment through the submission process. However, even inconsistent action plan actions must be given regard to in permitting decisions under cl 156 unless this loophole is closed.

Action plans are also used to set interim limits and timelines to achieve them, under cl 65. HortNZ considers this is a matter of public interest that should be open for submissions. The appropriate timelines to achieve limits should be largely based on the community's level of ambition and willingness to bear the economic impacts, so public consultation is absolutely needed on this topic.

Action plans should be set at the scale of a catchment or multiple catchments, focused on positive actions that the community can take to improve freshwater quality, such as the implementation of the *Nutrient Management Code of Practice*[13] for fruit and vegetable growers, rather than farm-level numeric limits and restrictions.

Outcomes sought:

- Require public consultation on action plans.
- Set action plans at the catchment or multiple catchment scale.

Table 5: Action plans in the NEB

Clause	Commentary	Proposed Amendments
New clause: XX Public consultation on action plans	Public consultation is needed on the pace of change to achieve environmental limits.	Introduce a clause requiring public consultation on action plans.

5. Freshwater Farm Plans

Issue: Freshwater farm plans need a clear role in the system as the main mechanism for managing effects from farming within permitted activity standards or consenting.

Outcomes sought:

- Freshwater farm plans should guarantee permitted activity status for fruit and vegetable growing.
- Improve the definition of "farm", drawing on the NES-Freshwater.

It is unclear how freshwater farm plans fit into the new system. While cls 64 and 106 require councils to justify why freshwater farm plans (and other tools) are insufficient before imposing land use or input controls, a certified freshwater farm plan does not appear to lead to any change in activity status. The NEB does not explicitly enable freshwater farm plans to function as a condition of a resource permit or as a permitted activity condition. Clause 62, which describes caps on resource use, is also disconnected from the freshwater farm plan framework.

HortNZ's view is that with a freshwater farm plan, permitted activity status should be guaranteed for fruit and vegetable growing. The Government has stated that freshwater

[13] Codes of Practice | Horticulture New Zealand – Ahumāra Kai Aotearoa

farm plans are a key tool for managing the effects of farming and growing on freshwater.[14] To align with the Government's intent to make freshwater farm plan regulations more workable and flexible, including to simplify and streamline compliance, it is critical that freshwater farm plan requirements are not duplicated across permitted activity rules, permits, natural environment plans, and national environmental standards. Where requirements overlap, equivalence must be recognised.

Growers should be able to focus their time and money on implementing positive environmental actions, not navigating parallel compliance pathways. Our concern is the risk of double-regulation with multiple registrations for permitted activities, duplicated assurance processes, and repeated reporting of the same information in different formats to different systems.

This is a particular risk if businesses use an industry assurance programme to fulfil their freshwater farm plan requirements, but the council requests the same information that is already within the farm plan. Changes are needed to prevent unnecessary fees caused by council inefficiencies, such as separate teams performing the same checks or requesting information from a business that the council already holds.

To make the NEB drafting more workable, a clearer definition of "farm" is needed. Many horticultural businesses grow on non-contiguous properties, sometimes in multiple regions. The definition of "landholding" from the NES Freshwater better captures this reality.

Outcomes sought:

- Freshwater farm plans should guarantee permitted activity status for fruit and vegetable growing.
- Improve the definition of "farm", drawing on the NES-Freshwater.

Table 6: Amendments to Freshwater Farm Plans Schedule

Clause (of Schedule 5 Freshwater farm plans)	Commentary	Proposed Amendments
2 Interpretation New definition of "landholding"	This definition comes from the NES Freshwater 2020. It makes it clear that freshwater farm plan thresholds are based on the sum of your paddocks or orchard blocks. Each non-contiguous parcel does not stand alone.	**"landholding" means 1 or more parcels of land (whether or not they are contiguous) that are managed as a single operation**

[14] Freshwater farm plans | Ministry for the Environment. Accessed 22/01/26; RMA replacement to reduce costs and drive on-farm growth | Beehive.govt.nz

Clause (of Schedule 5 Freshwater farm plans)	Commentary	Proposed Amendments
2 Interpretation Definition of farm	Incorporating the term "landholding" from the NES Freshwater 2020 makes it clearer that non-contiguous parcels are considered part of the same farm.	**farm** means a ~~farm~~ **landholding** where all or part of the ~~farm~~**landholding** is– (a) arable land use; or (b) horticultural land use; or (c) pastoral land use; or (d) other agricultural land use prescribed in regulations made under **clause 15(1)(b)**; or (e) any combination of the above
2 Interpretation Definition of horticultural land use	A definition of viticulture and orcharding is needed now that those activities have a differentiated threshold in Clause 5 of Schedule 5.	**horticultural land use** means the use of land to grow food or beverage crops for human consumption (other than arable crops), **including viticulture and orcharding,** or flowers for commercial supply.
2 Interpretation New definition of "viticultural or orcharding land use"	Clause 5, related to thresholds, distinguishes between "viticultural or orcharding land use" and "horticultural land use other than viticultural or orcharding land use". Therefore, "viticultural or orcharding land use" needs to be distinguished in the Interpretation.	**Viticulture or orcharding means the use of land to grow perennial crops on trees, bushes or vines, including grapes, for human consumption or commercial supply.**
5 Farm must have freshwater farm plan if it meets land use threshold	Greenhouses have a low impact on overall loads in the catchments where they operate.	(1) A farm must have a freshwater farm plan if– (a) 50 or more hectares of the farm is pastoral or arable; or (b) 50 or more hectares of the farm is viticultural or orcharding land use **or greenhouse activities**; or (c) 5 or more hectares of the farm is horticultural land use other than

Clause (of Schedule 5 Freshwater farm plans)	Commentary	Proposed Amendments
		viticultural or orcharding land use; or (d) a prescribed area of the farm is other agricultural land use prescribed in regulations made under **clause 15(1)(c)**; or (e) 50 or more hectares of the farm is a combination of 2 or more of the land uses set out in **paragraphs (a) to (d)**; or (f) the farm holds a Dairy Supply Number.
7 Contents of freshwater farm plan	The second part of (a) is different from the RMA Part 9a. Identifying human health or environmental limits within a catchment is the role of catchment context, which is provided by the regional council. This is not within the remit of individual growers. Freshwater farm plans need to consider avoiding, minimising or remedying effects on freshwater. That is the purpose of freshwater farm plans, as stated in the drafting of this clause. It is not clear how growers could offset or compensate for freshwater effects, but if they did have the option to do so, it should be in addition to avoiding, minimising or remedying, not as a replacement for those actions, and as part of a planning good practice mitigation hierarchy.	A freshwater farm plan must– (a) identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems ~~and any relevant human health or environmental limits to which those adverse effects on freshwater may contribute~~; and (b) specify requirements that– (i) are appropriate for the purpose of avoiding, minimising, remedying, ~~or~~ **and** offsetting or compensating when appropriate and enabled in a plan, 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; and (e) comply with clause 14.

Clause (of Schedule 5 Freshwater farm plans)	Commentary	Proposed Amendments
11 Records that must be kept by regional council	The information that can be sought by regional councils should be constrained to their functions. This is to avoid the current problem where councils can ask for any kind of information in any quantity regardless of the purpose of that information, creating significant cost and time burden for growers.	A regional council must keep and maintain, in relation to each farm in its jurisdiction, a record of… (c) any other information **required to fulfil their function under clause 10** ~~required by regulations~~.
13 Minister may **nationally** approve industry organisation to provide certification or audit services	HortNZ is supportive of the new pathway that was introduced under Part 9a of the RMA for industry assurance programmes to be nationally recognised. Clause 13 should be clear that this is still a national recognition pathway. Having to get an industry assurance programme approved by all regional councils with different requirements is both financially and logistically inefficient.	13 Minister may **nationally** approve industry organisation to provide certification or audit services (1) The Minister may, on application, approve an industry organisation to provide **national** certification or audit services, or both, under this schedule to its members…
15 Regulations relating to freshwater farm plans	Freshwater farm plans need to consider avoiding, minimising or remedying effects on freshwater. That is the purpose of freshwater farm plans. It is not clear how growers could offset or compensate for freshwater effects, but if they did have the option to do so, it should be in addition to avoiding, minimising or remedying, not as a replacement for those actions.	(1) The Governor-General may, by Order in Council made on the recommendation of the Minister after consulting the Minister of Agriculture, make regulations that… (e) provide for the content of a freshwater farm plan, including (without limitation) specifying– (i) any requirements, including actions, criteria, methods, or thresholds for the purpose of identifying, measuring, avoiding, minimising, remedying, **and**~~or~~ of offsetting or compensating when appropriate and enabled in a plan, any adverse effects of

Clause (of Schedule 5 Freshwater farm plans)	Commentary	Proposed Amendments
		activities carried out on the farm on freshwater and freshwater ecosystems; and (ii) outcomes that must be achieved for the purpose of avoiding, minimising, remedying, ~~or~~ **and** of offsetting or compensating when appropriate and enabled in a plan…

6. Activity Status

Issue: The Government has stated their intent for the new system to allow for more permitted activities and less cost/time associated with resource consents. The way that the Bill is drafted, however, does not appear to deliver on this aim.

Outcomes sought:

- Define or provide guidance for what constitutes an "acceptable" activity, how you determine if the effects of an activity "can be managed" and what constitutes "sufficient allocation" in clause 32.
- Bring RMA ss 70 and 107 changes into the NEB to allow an activity to be permitted or consented below bottom lines where effects will reduce over time, particularly in sub-cl 32(a)(ii).
- Activities which contribute to an improvement in environmental outcomes should be permitted.
- Significantly reduce the costs and compliance associated with permitted activities under the NEB and PB.
- Reintroduce controlled activity status to provide a certain and clear consenting process for activities with a minor effect on the environment.
- Define "adaptive management approach".

This section of our submission will work through each of the activity status categories and discuss potential pitfalls and opportunities within them.

6.1. Permitted activities

Clause 32(a) of the NEB states,

"When exercising or performing a function, power, or duty under this Act, a person must be guided by the following principles:

(a) an activity should be classified as a **permitted activity** if–

i. either–

A. the activity is acceptable, anticipated, or achieves the desired level of use, development, or protection of the natural environment; or

B. any adverse effects of the activity on the natural environment are well understood and can be managed; and

ii. there is sufficient allocation for any anticipated cumulative effect without breaching an environmental limit".

6.1.1. DEFINITIONS OR CLARITY NEEDED

Both sub-cls 32(a)(i)(A) and (B) require judgement to be applied using broad terms. Without definitions of these terms and guidance about how they are to be applied, it is difficult to predict how these criteria will be implemented. In particular, it is unclear:

- what is meant by the term "acceptable" and
- how you know if the effects of an activity "can be managed".
- It is also unclear how "sufficient allocation" is defined in sub-cl 32(a)(ii).

Sufficient allocation should be determined based on measured information rather than modelled where possible.

Outcome sought: Define or provide guidance for what constitutes an "acceptable" activity, how you know if the effects of an activity "can be managed" and what constitutes "sufficient allocation" in cl 32.

6.1.2. ABILITY TO PERMIT OR CONSENT AN ACTIVITY BELOW BOTTOM LINES

Sub-clause 32(a)(ii) appears to state that activities in overallocated catchments cannot be permitted.

The implication would be that all fruit and vegetable growing in overallocated catchments would require discharge permits, regardless of their relative or absolute impact on the contaminant of concern in the catchment. This would result in a substantially worse outcome for much of the horticulture sector than the current RMA, where many existing horticulture activities currently operate as a permitted activity.

6.1.2.1. Sections 70 and 107

In 2025, the Government amended ss 70 and 107 of the RMA in response to Environment Court decisions which would have made it impossible to permit or consent activities with

diffuse discharges where receiving waters were below bottom lines. The amendments created a pathway for these activities to be permitted if there were standards to reduce effects over a reasonable timeframe. These critical changes do not appear to have been carried over to the NEB. HortNZ suggests that sub-cl 32(a)(ii) could be amended to give effect to the changes to RMA s 70.

Outcome sought: Bring RMA s 70 changes into the NEB sub-cl 32(a)(ii) to allow an activity to be permitted below bottom lines where effects will reduce over time.

6.1.2.2. Using the funnel to enable activities

Because of the funnel approach, the secondary regulations should not be more enabling than the primary legislation. To make best use of the "funnel", the highest order direction should be the most enabling, and then each layer down "tightens" the approach to the extent deemed suitable.

While it could be reasoned that the use of the word "should" rather than "must" in sub-cl 32(a) creates a pathway for councils or national standards to make activities permitted in over-allocated catchments if they want to, it is unlikely that secondary regs or council plans will be more enabling than the first tier of the funnel.

6.1.2.3. Pathway for national direction to permit nationally important activities in overallocated catchments

It is also important that the primary legislation enables the solutions anticipated to be provided within national direction. National direction will not be able to make vegetable growing a nationally permitted activity with a certified freshwater farm plan if the primary legislation says there cannot be any permitted activities in overallocated catchments.

In order to create a permitted pathway for vegetable growing through national direction, the NEB needs to be amended to resolve the s 70 and s 107 issue.

6.1.2.4. Policies intended to only apply where limits have not been breached

Various clauses in the NEB assume limits are not already breached and that any breach will result from new degradation. However, many New Zealand catchments are already over-allocated for key contaminants, meaning large parts of the Bill's framework, including cls 32, 61, 64, 66, 67, 164, 197, 243 and 311, will not operate as intended. Clause 67 outlines what to do when a breach occurs but provides no guidance for catchments that are *already* over-allocated.

If the Bill is meant to enable primary production, it must enable existing growing and farming to continue (with freshwater farm plans and environmental mitigations) as permitted activities in over-allocated catchments. Otherwise, the Bill will make it unlikely that primary industries can be permitted activities across much of the country.

If these land users are required to obtain a consent, there will be significant cost to the industry. The cost of consenting will take away funds that growers could otherwise invest in improving productivity and environmental performance.

6.1.3. ACTIVITIES WHICH IMPROVE ENVIRONMENTAL OUTCOMES

Activities which contribute to an improvement in environmental outcomes should be permitted to incentivise, rather than penalise, behaviour change. This is particularly important for collective environmental action. If a group of growers decide together to fund a constructed wetland on one person's property to mitigate their collective environmental impacts, the property owner should not have to bear the full risk of applying for and holding the consent alone. The standards for such a process could be worked out through action plans, but only if this approach is made possible in primary legislation.

Outcome sought: Activities which contribute to an improvement in environmental outcomes should be permitted.

6.1.4. EFFECTS ON FRUIT GROWING

As drafted, sub-cl 32(a)(ii) would capture far more horticultural activities than are captured under the status quo. For example, discharges from fruit growing are currently permitted almost everywhere in New Zealand, except in PC 1 as discussed above.

The Explanatory Note of the NEB states that the Bills are expected to "reduce the number of consents needed". As drafted, sub-cl 32(a)(ii) would have the opposite effect and introduce consenting for our sector in over-allocated catchments where it isn't needed under the RMA.

Fruit growing is generally a low intensity activity. Nutrient runoff from perennial horticulture is typically considered minimal because most orchards are flat and grassed.[15] Orchardists seek precision with fertiliser use because they are wary of too much vegetative growth (called 'vigour'), and they want the plant's energy focused on fruit production.[16]

If all fruit growing was required to get a land use or discharge consent in overallocated catchments, that would be a significant cost and time penalty with minimal expected corresponding environmental benefit. All fruit growers over 50 hectares will be required to implement a freshwater farm plan, which will require appropriate actions matched to risk, aligned with the horticulture industry's *Nutrient Management Code of Practice*. Many growers above and below this threshold already have GAP farm plans and/or nutrient management requirements through NZGAP and GLOBALG.A.P.

6.1.5. COST ASSOCIATED WITH PERMITTED ACTIVITIES

Even in catchments that are not below bottom lines, the compliance costs associated with permitted activities under the NEB appear to be significant.

Sub-clause 39(1) provides two pathways for permitted activities – that a permitted activity rule must:

(a) require permitted activities be registered under the conditions of cl 202 or

(b) fulfil particular conditions from cl 169.

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[15] Gentile, R.M., Boldingh, H.L., Campbell, R.E. *et al.* System nutrient dynamics in orchards: a research roadmap for nutrient management in apple and kiwifruit. A review. *Agron. Sustain. Dev.* **42**, 64 (2022). https://doi.org/10.1007/s13593-022-00798-0

[16] Research review – assessing and modelling the environmental performance of horticultural land uses (p. 20)

As a side note, cl 169 seems to be erroneously titled, as it refers to conditions for permits (equivalent to consents), not permitted activities.

Scale of effects: Under Pathway 39(1)(a), permitted activities will need to register and do one or more of the following: obtain written public approval of all those who may be directly affected by the activity, obtain a certificate from a qualified person, pay a fee or comply with a cl 169 matter.

This clause provides no distinction between *de minimis* effects and permitted effects for the purposes of requiring registration. This could result in unnecessary costs for activities with negligible effects.

Registration: Given that the PB also has a permitted activity registration requirement in sub-cl 38(1)(a), this appears to mean that a grower would need to register every permitted part of their operation, such as the presence of frost fans or shelterbelts, clearing vegetation for biosecurity purposes, a permitted water take or creating a permitted discharge. If registration is required, it should be very simple and not a quasi-consenting process.

Written public approval: Persons carrying out a permitted activity may have to obtain approval of <u>all</u> persons who may be directly affected by the activity via clause 39(2)(b)(i). This approval will need to be obtained every three years under sub-cl 39(4), which would be a massive compliance burden. This is the opposite of the intent of the Bill, which is that "Community engagement is intended to primarily occur during spatial and natural environment plan development rather than at the permitting level".[17]

It also runs counter to cl 129, which states that applicants for a natural resource permit are not required to consult with any person about their application under this legislation. It does not make sense that a permitted activity user may need to get written approval of all persons who may be directly affected by an activity, but users who have received permits (through a restricted discretionary or discretionary activity status) do not need to do the same.

Certificate from qualified person: As a firm requirement, this will add additional cost to activities where is may not be justified. A certificate of compliance pathway should be voluntary for those who choose to seek such confirmation that their activities are compliant with permitted activity standards.

Fixed fee: Under cl 229, a fixed fee for permitted activities must only be used to recover costs for a local authority. However, a fixed fee for a permitted activity for farming under the NEB would be in addition to the cost of audit and certification of a freshwater farm plan, compounding costs for the grower. HortNZ supports freshwater farm plans as a pathway to a permitted activity or in lieu of a consent, but not in addition to duplicative requirements and fees.

Section 169 matters: Based on the title of cl 169, this clause should only apply to activities that require a permit (with restricted discretionary or discretionary status), so permitted activities should not be linked to this clause by cl 39. Certain subsections of cl 169 do not make sense for permitted activities or would impose additional cost and compliance:

[17] Natural Environment Bill, Explanatory Note.

- **Permit duration and lapse date:** If constrained durations are imposed on permitted activities before they must reapply to the council for permitted activity status, that is akin to a consenting process.

- **Bond:** It is not clear how a bond for a permitted activity would work in practice, as this goes beyond cost recovery. This could play out like taking a fine for a non-conformance before the activity even commences, with the promise that the fine will be returned. Seeing the regulations will be essential to understand how bonds will be applied in practice.

- **Requiring a covenant:** This would be highly unusual for a permitted activity. The cost of administering covenants is expensive, as it typically requires lawyers and registration on the certificate of title. Permitted activities will already be liable for breaches of the permitted activity conditions without an additional covenant.

Duplication with freshwater farm plans: There may be duplication between national or regional permitted activity standards and freshwater farm plans (and the associated freshwater farm plan standards). This could undermine the potential benefits of the freshwater farm plan regime, which are to manage the environmental effects of farming while reducing compliance burden. HortNZ supports freshwater farm plans as a pathway to a permitted activity or to achieve a condition of consent, but not in addition to duplicative requirements and fees.

It is worth noting that the freshwater farm plan regulations will only apply to activities over the area threshold specified in the legislation, while permitted activity standards will not necessarily have an area threshold. Careful consideration is needed for how standards and conditions of consent will apply to those activities with and without the requirement for freshwater farm plans to avoid duplicating compliance burden or adding significant compliance for activities considered low enough risk that they do not need a freshwater farm plan. Consideration is also needed to avoid duplicated requirements for properties within overallocated catchments which may require farm plans despite not triggering the freshwater farm plan size threshold in the Bill.

Outcome sought: Significantly reduce the costs and compliance associated with permitted activities under the NEB and PB.

6.1.6. HORTICULTURE IN OVER-ALLOCATED CATCHMENTS

Many of the areas that are important for fruit and vegetable growing have highly modified catchments including imperviousness, drainage, stormwater networks and flood protection. These modifications are related to wider catchment activities, which usually include other farming, as well as lifestyle and urban uses. Fruit and vegetable growing is often located at the urban-rural fringe because that is where the flat, fertile land is, as well as access to labour and proximity to markets and critical infrastructure.

In these highly modified catchments, an action plan approach, in addition to environmental limits, is needed to drive improvements. In some of these catchments, regional exceptions to national bottom lines may be justified due to their highly modified state, rather than because of the horticultural activities.

If a pathway for permitted activities in overallocated catchments is not clarified, then a controlled activity status is necessary to ensure that growers can have certainty that they will be able to continue operating in overallocated catchments.

Otherwise, the NEB will be stricter than the RMA in requiring all horticulture in overallocated catchments to obtain discharge and/or land use permits.

6.2. Controlled Activities

6.2.1. UNCERTAINTY WITH PERMITTED ACTIVITIES

Given the higher compliance costs and uncertainty associated with permitted activities under the NEB, growers need a more reliable pathway to make long-term investment decisions. When a land user cannot meet all permitted activity conditions, a controlled activity status becomes essential. It provides certainty that, if they meet clear criteria, they can obtain a permit and continue operating with predictable conditions over a defined time horizon.

Without a controlled activity status, growers in over-allocated catchments will be forced into the restricted discretionary pathway—undermining the reform's promise of a faster, cheaper, and more certain system.

Outcome sought: Reintroduce controlled activity status to provide a certain and clear consenting process for activities with a minor effect on the environment.

6.3. Restricted Discretionary and Discretionary Activities

6.3.1. ABILITY TO CONSENT AN ACTIVITY BELOW BOTTOM LINES

The Government's 2025 changes to s 107 of the RMA were intended to provide certainty that councils can issue consents where receiving environments are below bottom lines, if the council is satisfied that the consent conditions will reduce effects over the duration of the consent. This clarification does not seem to have been transferred to the NEB and combined with the firm requirement to "avoid" the breach of an environmental limit (cl 66), this could create the same situation which warranted intervention in 2025 where permits cannot be granted in catchments below bottom lines.

Outcome sought: Bring RMA s 107 changes into the NEB to allow an activity to be consented below bottom lines where effects will reduce over time.

6.3.2. ADAPTIVE MANAGEMENT

HortNZ supports the option for an adaptive management approach to permit applications as laid out in cls 104 and 167. This approach may be useful for a phased transition from over-allocation rather than a hard stop or change. This could be helpful for fruit and vegetable growers who are part of irrigation schemes in over-allocated catchments where collective arrangements can be used to reduce over-allocation. However, the term "adaptive management approach" requires a definition.

Outcome sought: Define "adaptive management approach".

6.4. Activity Status Commentary

Table 7: Summary of amendments to activity status

Clause	Commentary	Proposed Amendments
3 Interpretation New definition of "adaptive management approach"	HortNZ supports the option for an adaptive management approach and seeks a corresponding definition.	**Adaptive management means – a structured, iterative process of robust decision-making in the face of uncertainty, with the aim of reducing uncertainty over time through system monitoring and adapting management practices in response to what has been learnt**[18]
32 Principles for classifying activities Permitted Activities	Resolution of the s 70 issue in the RMA is needed here to allow for permitted activities in overallocated catchments. If an individual can manage their own effects through a freshwater farm plan, that should be sufficient to meet the permitted activity standard.	When exercising or performing a function, power, or duty under this Act, a person must be guided by the following principles: (a) an activity should be classified as a permitted activity if– (i) either– (A) the activity is ~~acceptable~~, anticipated, or achieves the desired level of use, development, or protection of the natural environment; or **(AA) the activity is recognised as a matter of national importance under national direction; or** **(AAA) the activity has a certified freshwater farm plan; or** (B) any adverse effects of the activity on the natural environment are well understood and can be managed; **or** **(C) the activity will improve environmental outcomes.** ~~and~~ ~~(ii) there is sufficient allocation for any anticipated cumulative effect without breaching an environmental limit:~~

[18] Adapted from NZ's experiences with adaptive management

Clause	Commentary	Proposed Amendments
32 Principles for classifying activities Controlled Activities	A controlled activity provides land users with certainty that if they meet certain criteria, they can achieve an enduring consent for a specified time period.	**(aa) an activity should be classified as a controlled activity if–** **(i) the activity is anticipated or achieves the desired level of use, development, or protection of the natural environment, and** **(ii) effects of the activity on the natural environment can be managed through national standards or permit conditions:**
32 Principles for classifying activities Restricted Discretionary Activities	It is unclear what the terms "acceptable" and "appropriately" mean in this subpart.	(b) an activity should be classified as a **restricted discretionary activity** if– (i) the activity is ~~acceptable~~, anticipated, or achieves the desired level of use, development, or protection of the natural environment, but 1 or more the activity's effects require specific assessment; and (ii) effects of the activity on the natural environment can be ~~appropriately~~ managed through national standards or permit conditions: (iii) any risk of breaching an environmental limit can be appropriately managed through national standards or permit conditions:
39 Permitted activity rules	This clause introduces a high level of compliance and associated cost for permitted activities without commensurate benefits.	Delete sub-cl 39(1)(a). Delete sub-cl 39(2). **(X) A permitted activity rule may require a freshwater farm plan.**

6.5. Land use permits that run with the land

Clause 193 attaches land use permits to the land to which the permit relates. We support the ability to transfer these permits.

Attaching permits to land parcels restricts the ability of commercial vegetable growers to rotate crops and maintain soil health. Leasing and rotation may require repeated re-permitting, making vegetable production unworkable. HortNZ's preference would be that rotation can be managed through a farm plan, and that land use permits should be able to be used or transferred within a catchment or other meaningful management unit. This concern would be resolved if the transfer process is easy and inexpensive to use.

Table 8: Land use permits and transfer

Clause	Commentary	Proposed Amendments
193 Land use permits attach to land	National direction for vegetables, as a national instrument, may allow for a permit to be used within a catchment to allow for crop rotation across land parcels and across a mix of owned, leased and swapped land. We recommend deleting the phrase "unless the permit expressly provides otherwise" from sub-clause (3) because there isn't a clear justification for removing the ability to transfer.	(1) A land use permit attaches to the land to which the permit relates and accordingly may be enjoyed by the owners and occupiers of the land for the time being, unless the permit **or a national instrument** expressly provides **the ability to transfer the land use permit within the same management unit** ~~otherwise~~. (2) **Subsection (1)** does not apply to any land use permit to do something that would otherwise contravene **section 19**. (3) The holder of a land use permit described in **subsection (2)** may transfer the whole or any part of the holder's interest in the permit to any other person ~~unless the permit expressly provides otherwise~~. (4) The transfer of the holder's interest in a permit described in **subsection (2)** has no effect until written notice of the transfer is given to the permit authority that granted the permit.
196 Transferability of discharge permits	A national instrument may provide for transfer of discharge permits outside the bounds of the conditions in subclause 196(4).	(4) A plan may allow a transfer or a permit authority may allow a transfer if– (a) the transfer does not worsen the actual or potential effect of any discharges on natural resources or people; and (b) the transfer does not result in any discharges that contravene a national rule; and (c) if the discharge is to water, both sites are in the same catchment; and (d) if the discharge is to air and a national rule applies to a discharge to air, both sites are in the same air-shed as defined in the rule; and (e) if the discharge is to air and **paragraph (d)** does not apply, both sites are in the same region **or**

Clause	Commentary	Proposed Amendments
		(f) if a national instrument provides for the transfer.

7. Allocation

Issue: HortNZ seeks opportunities for allocation frameworks which enable the recognition of all the benefits and costs of resource use, including their use and non-use values; for instance, the recognition of efficiency and the public benefit of activities.

Outcomes sought:

- Delete clauses related to market-based allocation.
- Delete clause 313 "Regulations relating to natural resource levies".
- Amend the allocation framework of the NEB that provide a pathway to prioritise allocation for primary production on highly productive land.
- Provide for rootstock survival water in cl 20.

7.1. Market-Based Allocation

HortNZ supports mechanisms that encourage efficient use of resources via the option to transfer excess water to other users. HortNZ also supports collective consenting mechanisms that allow users to collaboratively manage resource use and potentially trade amongst members based on dynamic demand.

For example, an orchard needs more water when it is being established than when the trees are mature. Say that an orchard receives a certain level of allocation, but their actual need reduces once their trees are at full production. At that stage, there should be an ability for the balance of water to be transferred or used elsewhere within the catchment. In this circumstance, transfer provides for efficient use of water and does not increase total water allocation.

This approach of enabling the efficient transfer of water between users without increasing total allocation or abstraction volumes worked practically in the past until more recent versions of the National Policy Statement for Freshwater Management (NPSFM) and Environment Court decisions which treated transfers as new takes.

However, HortNZ does not support a market-based allocation approach that allocates resources to the highest bidder or highest value use. There is a risk that market-based allocation would shift access to freshwater away from activities that cannot afford to pay the highest price but are the most resource efficient or deliver wider community benefit, such as growing fruits and vegetables for the domestic market. The likely consequence of such a system would be less economic diversification and an inequitable distribution of resources,

where the highest bidders would take more of the resource. Innovative new users would be locked out of the system if they did not yet have the funds to participate.

Furthermore, a diverse economy is a stronger, more resilient economy. The highest bidder today might be knocked over by adverse weather events or biosecurity incursions tomorrow. Water allocation systems should not be the barrier to the existence of a mix of industries. New industries can take years to establish and reach profitability. We don't know today what the "winner" might be tomorrow, and it would be a shame to prejudge this based on current financial status.

Whether or not a market-based allocation is implemented, HortNZ seeks that the option remains to transfer or trade allocation outside of a market-based system. For instance, two neighbouring farms may have a longstanding relationship, and one grower might want to share their water allocation to their neighbour as their demand changes. This should be allowed, rather than a situation where any excess allocation must be auctioned to the highest bidder.

Outcome sought: Delete clauses related to market-based allocation.

7.2. Efficiency in Allocation

Even outside of the use of market-based allocation methods, the NEB should be explicit that efficiency is an important criterion for determining allocation for freshwater abstraction. If we are to make the best use of a limited resource, users should be incentivised to become more efficient. Some freshwater plans like the Hawke's Bay TANK Plan Change have perversely incentivised users to take more water than they need at a given time to keep their measured "actual use" high and maintain access to their allocation in case they need it later. Incentives can include greater reliability of access to freshwater to provide business certainty or the ability to trade excess allocation. A system that incentivises efficiency grows abundance by making more of a resource available for more production. HortNZ proposes an amendment to cl 99 to introduce resource use efficiency in allocation.

7.3. Natural Resource Levies

HortNZ does not support natural resource levies or charging for managing demand. This would be a risk to the diversity of our primary industries if access to the resource is based on ability to pay. Having a mix of industries, small and large businesses, and new entrants is also important for the economic resilience of our sectors. Growers often say, "you can't be green if you're in the red." The more costs that are layered on growers, the less money is left over to invest in environmental improvements. There are better ways to encourage efficiency that do not have adverse financial outcomes for growers, including freshwater farm plans and the design of allocation frameworks.

Outcome sought: Delete clause 313 "Regulations relating to natural resource levies".

7.4. Sequencing of Limit Setting and Spatial Planning

Clauses 27 and 67 of the PB state that the purpose of regional spatial plans includes enabling "integration at the strategic level of decision-making under this Act and the Natural Environment Act 2025".

With the new "funnel" structure being introduced by the Bills, HortNZ's understanding is that spatial plans will be fully completed before natural environment plans. This would indicate that the spatial extent of zones which allow for different activities with enabling provisions will be determined before councils or the community are certain about what resources are available to allocate to those activities.

For instance, highly productive land may be mapped under spatial planning, but it will not be clear whether there is available water allocation or whether council plans will allow for activities to discharge from that highly productive land until the natural environment plans are complete. This could lead to the perverse outcome where land is constrained by the Planning Act from being developed for housing before being enabled by the Natural Environment Act for use for primary production. Horticulture, in particular, relies on the fertile soils of highly productive land, but it requires water and the ability to discharge for growers to be able to grow food.

Outcome sought: Amend the allocation framework of the NEB to provide a pathway to prioritise allocation based on national direction, including for primary production on highly productive land.

7.5. Provide for Rootstock Survival Water

Provision for rootstock survival water, meaning just the amount of water necessary to prevent the loss of horticultural crops, should be afforded the same protections as stock drinking water under cl 20 of the NEB. This aligns with government priorities and coalition agreements to "develop efficient and equitable methods for water allocation" and "cut red tape and regulatory blocks on irrigation".

Reliable access to water is critical for many activities including horticulture, agriculture and urban activities. The way that water shortages and access restrictions can affect horticultural systems, however, is distinct from agricultural systems. Trees and vines can produce on orchard for many years, but damage from water stress during one season can affect production for seasons to come, if it doesn't kill the tree or vine entirely. Severe water stress can lead to root die-back and reduced branching, which negatively affects productivity in the next season.

For many crops, a shortage of water can have a significant impact on growers' ability to meet market requirements such as shape or size characteristics. If these standards are not met, the value of the crop is significantly reduced. If growers are not paid enough by the market to account for all of their inputs (e.g. labour, machinery), this can affect the business viability of the orchard. Without confidence in their ability to maintain productivity, a grower is unable to raise capital, invest or expand and will likely replace their trees or change land use.

For avocados, kiwifruit, apples and other fruit crops, there is significant capital investment in rootstock. Full production is only reached after approximately three years for avocados, four years for kiwifruit and apples and six to eight years for cherries. Some tree varieties must also be ordered two to three years in advance.

Security of supply for orchards can be secured through provisions for rootstock survival water. This means that in times of low flow, orcharding is allowed a secondary allocation of water, after other activities stop taking, to prevent long term damage to trees and vines.

HortNZ has demonstrated with modelling in several regions that a small volume of water can be allocated for rootstock survival (below the primary cease-take threshold) with a negligible impact on the flow regime.[19] In this way, rootstock survival water is provided for within an appropriate 'boundary' – this enables an economic value to be met, achieves efficient allocation, and also enables ecological objectives.

There is already precedent for rootstock survival water provisions in New Zealand planning, as they are included in the Hawke's Bay Regional Resource Management Plan PC6, the Tasman District Council Resource Management Plan and the Northland Regional Plan.

Outcome sought: Provide for rootstock survival water in cl 20.

7.6. Amendments Sought

Table 9: Allocation amendments

Clause	Commentary	Proposed Amendments
3 Interpretation Definition of "market-based allocation process".	HortNZ seeks that the market-based allocation process is removed from consideration.	~~**market-based allocation process** means a process that=~~ ~~(a) involves competing offers, such as an auction, tender, or other process for determining how to allocate a right to apply for a natural resource permit…~~
20 Restrictions relating to water	HortNZ seeks recognition of rootstock survival water, given the multi-year investment and high capital cost to replace trees or vines if they can no longer produce due to water stress.	(4) A person is not prohibited by **subsection (3)** from taking, using, damming, or diverting any water, heat, or energy… (b) in the case of fresh water, if both of the following apply: (i) the water, heat, or energy is required to be taken or used for an individual's reasonable domestic needs or the reasonable needs of a person's animals for drinking water **or for rootstock survival water**:

[19] Plant and Food Research. October 2023. Rootstock survival for New Zealand orchards.

Clause	Commentary	Proposed Amendments
		(ii) the taking or use does not, or is not likely to, have an adverse effect on any natural resource…
87 National standards or regulations may set operational details for market-based allocation process	HortNZ seeks that the market-based allocation process is removed from consideration. If it remains, introduce process steps to consider when market-based allocation is not appropriate – for instance when it may decrease economic resilience.	National standards or regulations may– (a) require or permit the use of a market-based allocation process to determine the allocation of a right to apply for a permit for a natural resource use activity; and (b) impose any operational requirements relating to such matters as– (i) the use of a market-based allocation process; and (ii) the processes, including auction and tender processes, to be followed; and (iii) eligibility criteria**; and** **(c) determine where or when the use of market-based allocation processes is not appropriate.**
99 Rules may allocate natural resource activity	If activities are prioritised for allocation under national direction, such as the use of water for primary production on highly productive land, then there needs to be a pathway in the primary legislation to require regional councils to incorporate that prioritisation. Direction also needs to be given for resource use efficiency, or else the enabling of market-based allocation in this legislation may lead to allocation regimes that prioritise the highest bidder.	(1) A rule in a plan may allocate a natural resource use activity. (2) A rule that allocates a natural resource use activity– (a) must not allocate the amount of a natural resource that is already allocated by an existing permit, while that permit is valid… (e) may allocate natural resource use as a fixed amount or as a proportion of the available resource**; and** **(f) must consider resource use efficiency and** **(g) may consider how to prioritise the use of highly**

Clause	Commentary	Proposed Amendments
		productive land for primary production.
195 Transferability of water permits	HortNZ supports the ability to transfer water permits.	n/a
196 Transferability of discharge permits	HortNZ supports the ability to transfer discharge permits. In particular, this clause allows over-allocation to be addressed by enabling land use change to activities with fewer effects by permitting transfers where this outcome is achieved. This could be strengthened by requiring this type of transfer to be allowed, not leaving it up to planning authorities.	(4) A plan ~~may~~ **must** allow a transfer or a permit authority ~~may~~ **must** allow a transfer if– (a) the transfer does not worsen the actual or potential effect of any discharges on natural resources or people; and (b) the transfer does not result in any discharges that contravene a national rule; and (c) if the discharge is to water, both sites are in the same catchment; and (d) if the discharge is to air and a national rule applies to a discharge to air, both sites are in the same air-shed as defined in the rule; and (e) if the discharge is to air and **paragraph (d)** does not apply, both sites are in the same region.
204 Right to apply for allocation-based permit right to apply	The implications of this clause seem to be that growers would need to be invited to apply under a market-based allocation scheme before they could make an allocation. It is unclear how this would work in practice in terms of who would do the inviting and how they would know who to invite. This seems to add an unnecessary step to the process.	Delete c204 or alternative relief.

8. Water Storage

Issue: Catchment-scale and collective water storage schemes should be recognised in the primary legislation and national direction given their importance for climate adaptation and community resilience, with benefits for drinking water supplies and productive use.

Outcome sought: Include catchment water storage in the definition of long-lived infrastructure.

One of New Zealand's greatest advantages is our relative abundance of water. The problem is getting access to that water at the right time of year in the right volumes while ensuring enough remains in freshwater ecosystems for ecosystem health. We have an opportunity to build our way out of scarcity through collective water storage schemes which harvest water when it is abundant in the winter for use when water is scarce in the summer. Stored water can then be used for community drinking water supplies, primary production use or industrial use.

Getting water storage at the right scale is key for horticulture. Collective storage can be much more effective and efficient for our sector than on-farm storage because the overall efficiency of horticulture across small land parcels means that there is little spare land upon which to develop onsite storage. Offsite, collective storage can better serve the needs of large areas of smaller horticultural landholdings.

While HortNZ supports the Government's intent to introduce the NES Off-Stream Water Storage consulted on in mid-2025, improved national policy support and recognition in the primary legislation is needed for collective water storage that will enable our industry to continue our strong contribution to the government's goal of doubling export value.

The NEB enables long consent durations and regulation-making for prescribed long-lived infrastructure, but freshwater storage is not explicitly identified or elevated, while other infrastructure classes such as hydroelectric generation are clearly recognised and supported with long consent durations (up to 35 years). This creates an uneven hierarchy across infrastructure classes, despite comparable asset life, safety regimes and public benefit.

HortNZ's vision is that water storage will be proactively planned for under the PB with linkages to water allocation decisions under the NEB. HortNZ imagines that a combination of spatial planning and the framework of the 30-Year Infrastructure Plan could be used to prioritise community-scale water storage and the activities it could support to grow export value. At the same time, the NEB should have direction recognising how water storage can support ecosystem health by reducing effects on flow regimes.

HortNZ supports the policy positions in Irrigation New Zealand's submission related to enabled water storage as long-lived infrastructure across the PB and NEB.

Table 10: Analysing the potential legislative pathway to collective water storage

Clause	Commentary	Proposed Amendments
3 Interpretation	The definition of "long-lived infrastructure" is comprised of a list of facilities, including gas pipelines, telecommunication networks, electricity generation, electricity networks, transport infrastructure and cargo or passenger loading/unloading facilities. It also allows for infrastructure defined as "long-lived" under regulations. It would be straight-forward to include collective water storage under this list, which has a similar design life and public benefit to other infrastructure that is included.	**Long-lived infrastructure** means… **<u>(fa) collective water storage:</u>**
179 Duration of permit for renewable energy and long-lived infrastructure	The NEB specifically provides for a 35-year permit for "a renewable energy activity or a long-lived infrastructure activity". This could include water storage if the definition is amended.	See above.

9. Drinking Water Supplies

Issue: There are duplicated responsibilities between the Water Services Act and the resource management system when it comes to managing drinking water supplies.

Outcome sought: Amend cl 157 to disregard matters that are dealt with under other legislation.

As drafted, cl 157 would need to be considered for every natural resource permit that could affect drinking water. However, the responsibility for drinking water safety should lie with the drinking water suppliers first and foremost. Drinking water suppliers must treat and filter their water, and they must also choose appropriate locations for drinking water sources in the first place.

Some locations will always carry higher contamination risk because of existing, lawfully established activities. Past policy proposals have not adequately addressed how decisions about source-water location should be made. If a new drinking water source would impose land-use constraints on highly productive land or established primary production, then alternative locations should be prioritised. This requires a strategic, spatial planning approach.

It is not reasonable to expect that untreated drinking water can be taken from anywhere without consequences. That expectation would effectively sterilise productive land and undermine existing activities.

National direction or redrafting is needed to clarify the responsibilities of drinking water suppliers when selecting new sources. New supplies should not be located on highly productive land or in places where they would constrain established primary production. Where effects are managed under the Water Services Act, those same matters should not be regulated again under the resource management system.

Table 11: Drinking water amendments

Clause	Commentary	Proposed Amendments
157 Matters relevant to activities affecting drinking water supply source water	Where effects are managed under the Water Services Act, those same matters should not be regulated again under the resource management system.	The permit authority must have regard to– (a) the actual or potential effect of the proposed activity on the source of a drinking water supply that is registered under section 55 of the Water Services Act 2021; and (b) any risks that the proposed activity may pose to the source of a drinking water supply that are identified in a source water risk management plan prepared in accordance with the requirements of the Water Services Act 2021. **(c) A person exercising or performing a function, duty, or power under this clause must disregard any matter where the effects of an activity are dealt with under other legislation.**

10. Information quality

Issue: Information used to set limits and make allocation decisions should be high quality.

Outcome sought: Amend cl 59 to prioritise quality assured data.

It has been HortNZ's experience in regional freshwater plan processes that an over-reliance on modelled data can create problems where the models are used beyond their intended purpose and without their limitations in mind. This has been a particular problem where models that were calibrated for other land uses are applied to horticulture.

There are existing frameworks that can be used to assess the quality of data and ensure public confidence that only high-quality information is used for consequential decision-making. For instance, it could be required that data used by the regional council to set environmental limits or make allocation decisions be independently verified to comply with

the requirements of the national environmental monitoring standards for water meter data and meet a certain quality threshold.[20]

HortNZ supports the Parliamentary Commissioner for the Environment's work on improving New Zealand's environmental reporting and technology use for resource management decision-making.[21]

Outcome sought: Amend cl 59 to prioritise quality assured data.

Table 12: Best obtainable information

Clause	Commentary	Proposed Amendments
59 Best obtainable information	It is important that this data is quality assured to ensure accuracy. Measured data should be required to meet a level of quality assurance.	(1) In this subpart, the best obtainable information means information that the decision maker is satisfied— (a) is as robust, transparent, and accessible as reasonably possible; and (b) is obtained from information that is available or can be reasonably obtained at the time; and (c) is obtained in a manner that is proportionate to the effects of the decision. (2) When considering whether information is the best obtainable information, the decision maker must be guided by any criteria prescribed in regulations but is subject to section 52(5). **(3) When considering whether information is the best obtainable information, data should be quality assured.**

[20] National Environmental Monitoring Standard. Water Metering. Version 2.0. November 2017. (p. xi)
[21] Parliamentary Commissioner for the Environment. (2019). Focusing Aotearoa New Zealand's environmental reporting system.

APPENDIX A

Additional Amendments to the Natural Environment Bill

Without limiting the generality of the above, HortNZ seeks the following decisions on the Natural Environment Bill, 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. This section contains HortNZ's position on clauses that have not already been discussed elsewhere in the submission.

Additions are indicated by bolded underline, and deletions by strikethrough text.

Provision	Commentary	Proposed Amendments
3 Interpretation Definition of natural resources	The definition currently includes "plants and animals", which inadvertently captures cultivated plants like kiwifruit or pumpkins. For the purposes of this term in the Bill, the definition would be better limited to indigenous plants and animals, which are already captured by the subclauses for indigenous biodiversity and ecosystems and their constituent parts.	**natural resources** includes– (a) all of the following… ~~(vi) plants and animals; and~~ (vii) indigenous biodiversity; and (b) ecosystems and their constituent parts
14 Considering effects of activities	HortNZ supports 14(a)(i) which requires consideration of positive effects of enabling activities.	Retain 14(a)(i).
53 Developing human health limits	This clause grants the Minister power to set human health limits in a national standard. It is worth considering that leaving this power with the Minister could result in swings of limits with each political cycle. Involving an independent Technical Advisory Group in the setting of environmental limits would lead to more enduring and credible direction for change. It would enable appropriately qualified experts to support	Establish a Technical Advisory Group for limit setting.

Provision	Commentary	Proposed Amendments
	decision making, akin to the independent panels that support plan making.	
56 Assessing impact of proposed environmental limit or methodology	HortNZ supports consideration of "the needs or aspirations of communities for the economy, society, and the natural environment", but this direction could be stronger to also consider food supply as an essential human health need. HortNZ supports an assessment of "the efficacy and cost of available methods to manage effects within the proposed limit". This assessment should also apply to cl64 "Considerations before action plans can include controls on land use or inputs".	A consideration of the impact of a proposed environmental limit or methodology requires an assessment of… (b) the needs or aspirations of communities for the economy, society, **food supply** and the natural environment:
66 Avoiding breach of environmental limit	The requirement that regional councils must "avoid" breaching an environmental limit is a firm directive. This may conflict with the changes to sections 70 and 107 of the RMA that were made in 2025 to allow activities to continue in overallocated catchments under conditions that reduced their environmental effects over time.	(1) A regional council must **take all practicable measures to** avoid breaching an environmental limit. (2) A regional council must evaluate the likelihood of a limit being breached if–
86 National standards relating to significant infrastructure that breach environmental limits	HortNZ supports the concept of a consenting pathway for activities with significant public benefits where those activities may contribute to a breach of environmental limits. While HortNZ believes that it is possible for vegetable production to be enabled within environmental limits, that is only possible if it is prioritised within allocation. This pathway could also be used to ensure vegetable growing could continue operating in overallocated catchments given its critical role in domestic food supply, with requirements for demonstrable reductions in environmental impact over realistic	86 National standards relating to **activities of national importance and** significant infrastructure that breach environmental limits (1) National standards may establish a consenting pathway for significant infrastructure **and** activities **of national importance** that breach or are likely to breach environmental limits.

Provision	Commentary	Proposed Amendments
	timeframes, which will be achieved through audited and certified freshwater farm plans.	(2) Before making national standards establishing a consenting pathway under this section, the Minister must be satisfied that– (a) the pathway is available only to categories of infrastructure activity **and activities of national importance** with significant public benefits; and (b) the pathway is available to a user only after they have taken all practicable steps to carry out the activity without breaching environmental limits…
90 Amendments to national standards without full process	HortNZ supports the ability to use a truncated process to amend national direction under some circumstances. However, if the amendment is to give effect to a national adaptation plan, public consultation should still be required because the public may have differing views about the best way to give effect to the adaptation plan in different spheres. The other reasons to skip the full process are either technical, to give effect to standards, or to give effect to international agreements, so the adaptation plan is the odd one out. Require the full consultation process to make amendments to national standards to give effect to a national adaptation plan.	Delete 9(1)(c).
97 Core obligations when preparing and deciding natural environment plan	HortNZ supports the option to consider whether a natural environment plan is consistent with those of adjacent regional councils. This should create efficiencies for activities, such as fruit and vegetable growing, that operate across regional boundaries. Emissions reduction plans, as well as adaptation plans, should be considered. Resource allocation is a powerful potential tool	(4) The regional council must… (c) have regard to any of following to the extent that it has a bearing on activities in the region and is within the regional council's responsibilities…

Provision	Commentary	Proposed Amendments
	to drive emissions reductions and help New Zealand meet our climate goals domestically. Retain 97(4)(c)(ii). Add reference to emissions reduction plans.	(v) any **emission reduction plan or** adaptation plan prepared under the Climate Change Response Act 2002; and…
105 Methods relating to incentives	This clause can be more explicit that both regulatory and non-regulatory methods help achieve behaviour change.	A **regulatory or non-regulatory** method in a natural environment plan may provide an incentive to a land owner to undertake an activity if– (a) the incentive meets any criteria set out in regulations; and (b) the regional council considers that the activity will help achieve the objectives and policies of the plan.
155 Matters that permit authority must disregard.	HortNZ supports subclause 155(1)(b) which states that a permit authority must disregard any adverse effect of an activity if it is permitted by a national or regional rule.	Retain clause 155(1)(b).
258 Scope of enforcement order	HortNZ supports this clause which can require the polluter to pay for remediation of contaminated land, rather than the current landowner. Landowners should not be required to pay for existing ambient levels of contaminants left by previous owners which could be decades old.	Retain clause 258(e).
287 Insurance against fines unlawful	We do not support the proposal to prohibit resource users from taking out insurance for fines associated with offences under the Act.	Delete clause 287.

Provision	Commentary	Proposed Amendments
	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.	

APPENDIX B

Plan Change 1 and Plan Change 2

This appendix is provided to give context to the conversations about National Direction for Commercial Vegetable Production and provide an update on the regional plan processes that may lead to very difficult consenting processes for vegetable growers.

1. Waikato Plan Change 1

Waikato Plan Change 1 was developed under the NPSFM 2014. The council's proposed approach will result in an extremely difficult consenting regime and a likely reduction in vegetable production.

The Environment Court released an interim decision in May 2025. Our understanding of the interim decision is that a large proportion of current commercial vegetable growing is unlikely to be able to achieve consent through the proposed controlled activity pathway and may not be able to achieve consent at all. The plan provides a very constrained pathway for the expansion of commercial vegetable growing. The key problems are as follows:

- The definitions and rules make it unclear whether anything other than vegetables can be grown in a crop rotation, including pasture or cover crops grown in rotation with vegetables. All vegetable growers grow in crop rotations that include non-vegetable crops. It appears that growing vegetables in crop rotations that include arable crops or stock may be a non-complying activity. HortNZ continues to advocate that these issues be resolved prior to the issuing of the final decision.

- The controlled activity rule applies to "existing" commercial vegetable production. The rule defines existing vegetable growing area as an individual grower's maximum total area in any year during the reference period (1 July 2006-30 June 2016). It then also limits growers to the area within each sub-catchment where they were growing in that same year. The drafting of the rule means that not all vegetable growing area that was operating in the baseline period will be able to be consented as a controlled activity.

- A discretionary rule provides for expansion, but it captures land that was in vegetable growing in the baseline period that has changed ownership in the past 10 years. It also captures vegetable growing operations that are no bigger overall at the FMU scale but have changed the specific location of their growing within sub-catchments due to changes in leases/ownership since the reference period. In many sub-catchments, the directive nature of this policy means that these vegetable growing areas will not be able to achieve consent as a discretionary activity. The discretionary rule also has a number of locations in which no expansion is allowed (as a discretionary activity), including the Whangamarino Wetland Catchment and eight named sub-catchments spread across the Upper, Middle and Lower Waikato River. The total area of expansion in each FMU is also limited.

- The restricted discretionary rule for the Whangamarino sub-catchment is drafted in a way that means that most existing vegetable growing will be unable to gain a restricted discretionary consent.

- Vegetable growing that cannot meet the controlled, discretionary or restricted discretionary pathways has a non-complying rule path. The directive nature of the PC 1 vegetable policy and recent changes to the interpretation of s 107 of the RMA mean it is very uncertain whether vegetable growing areas in a number of sub-catchments will be able to gain consent through the non-complying path.

No consent applicant is guaranteed to be successful when applying for a discretionary or non-complying consent. Depending on the final Environment Court decision, the viability of over 20% of New Zealand's vegetables for domestic supply may be uncertain.

2. Horizons Plan Change 2

Under the One Plan, intensive farming land uses within the Horizons region (which includes both new and existing commercial vegetable production) had to meet absolute Overseer numbers to get consent. These numbers were set based on grass growth rates (the grass curve) using modelling of dairy farms, rather than modelling of vegetable production. This meant that it was extremely difficult for vegetable production to meet the numeric limits required for consent.

Under this framework, only one vegetable grower was granted consent. This situation persisted for several years, and PC 2 was proposed by Horizons Regional Council to provide a viable consenting pathway for existing intensive farming land uses by updating the Overseer numeric limits and providing an alternative consenting pathway for activities that could not meet the updated limits.

Horizons Plan Change 2 was also developed under the NPSFM 2014. The council's proposed approach would result in the contraction of existing vegetable growing and an extremely difficult consenting framework for expansion.

PC2 sought to improve the workability of the One Plan provisions that regulate dairy farming, commercial vegetable growing, cropping and intensive sheep and beef. Under the One Plan, consent is required for existing intensive farming land uses within targeted Water Management Sub Zones. These zones cover a large portion of vegetable growing area in the Horowhenua.

The consenting pathway for vegetable growing from the Commissioners' Decision on PC2, issued on 19 March 2021, is shown in Figure 3.

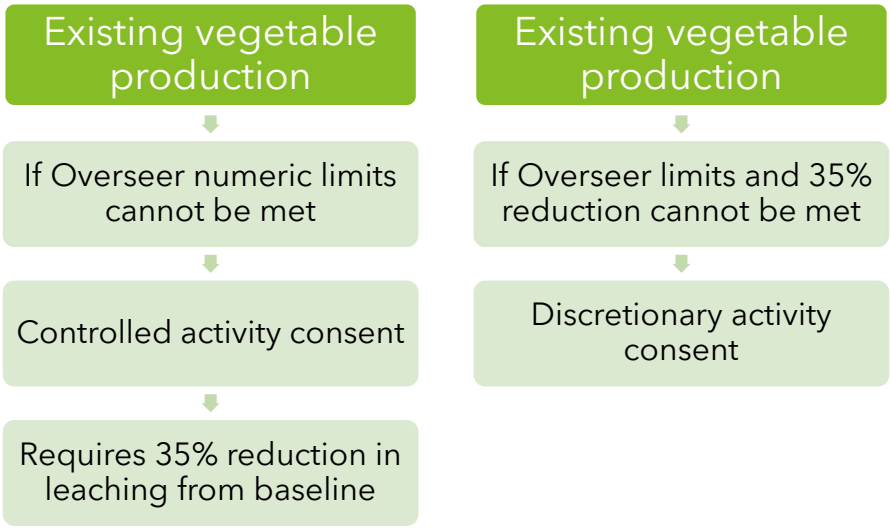

Figure 3: Vegetable growing consent pathway under Horizons PC2 decisions version

This decision was appealed by several parties, who sought that vegetable production would still need to meet the numeric limits for a controlled activity consent. HortNZ, Horizons Regional Council, and Federated Farmers opposed the appeals, seeking a controlled activity pathway where good management practice leading to leaching reductions could be demonstrated.

In December 2025, an interim decision was released from the Environment Court for Plan Change 2. [22] The Environment Court has introduced a controlled activity specified reduction pathway (SRP) for nitrogen loss from existing intensive activities, such as commercial vegetable growing. For commercial vegetable growing, there is a requirement to achieve a 35% reduction from a 2012/2013 baseline in modelled nitrogen loss, and this must be achieved within two years of PC2 becoming operative for the operation to get a consent as a controlled activity. This will be achievable for most operations, however may not be achievable for brassica dominant rotations. In this case, those operations unable to achieve the controlled SRP pathway will have to apply for a discretionary consent.

No applicant is guaranteed to be successful when applying for a discretionary consent and this is of concern given the volume of green vegetables produced in Horowhenua for domestic supply.

In the interim decision, the Environment Court recognised that "it is indisputable that crop rotation is an essential component of commercial vegetable growing and not giving consideration to maintaining food security would be fanciful."

The Environment Court made it clear there was no scope to delete Overseer from PC2 completely. The concern about the suitability and use of Overseer as a regulatory tool has been raised by both the Parliamentary Commissioner for the Environment and subject of an independent review commissioned by the Ministry for the Environment.

[22] Decision [2025] NZEnvC 398

In the 2018 report by the PCE, it was noted that "The company responsible for developing and maintaining Overseer – Overseer Ltd – still sees it very much as an on-farm management tool …

I have come to the conclusion that in some important respects, Overseer does not meet the levels of documentation and transparency that are desirable in a regulatory setting"[23]

The PCE report, a subsequent independent review of Overseer, and a government established Technical Advisory Group who reviewed the Overseer redevelopment programme contributed to the Ministry for the Environment's guidance for Councils on use of Overseer in regulation. The guidance maintains that Overseer numbers should not be used as absolute numbers, and that regulators should continue to use a multi-evidence approach when assessing nutrient losses across farms and catchments.[24] This is important in the context of Plan Change 2 as the Environment Court noted the use of Overseer is heavily embedded in the plan and there was no scope to remove Table 14.2 (which is based on Overseer). Furthermore, there are issues that arise with updates to the Overseer model and how this impacts numbers in Table 14.2.

The SRP controlled pathway option is needed to address the limitations that Overseer has for commercial vegetable growing operations given it cannot account for the range of mitigations available to growers to reduce nitrogen leaching and cannot predict nitrogen losses for all crop types. As a result, its validity for the sector is undermined and should not be in use as a farm planning tool for growers. In addition, the exhaustive records required to be inputted from a commercial vegetable growing operation are well in excess of those required for a pastoral operation as Overseer has not primarily been developed for use in horticulture.

[23] Parliamentary Commissioner for the Environment. (2018). Overseer and regulatory oversight: Models, uncertainty and cleaning up our waterways

[24] MfE. (2024). Responding to the Overseer model redevelopment review: A guide for councils.