

SUBMISSION ON

Tax Treatment for Land Improvements

28 May 2026

To: Inland Revenue

Name of Submitter: Horticulture New Zealand

Supported by: Blackcurrant NZ, Strawberries NZ, Citrus NZ

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OVERVIEW

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Our submission

Horticulture New Zealand (HortNZ) thanks Inland Revenue for the opportunity to submit on the tax treatment of land improvements impacted by flooding and erosion consultation and welcomes any opportunity to continue to work with the department to discuss our submission.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below.

HortNZ's Role

Background to HortNZ

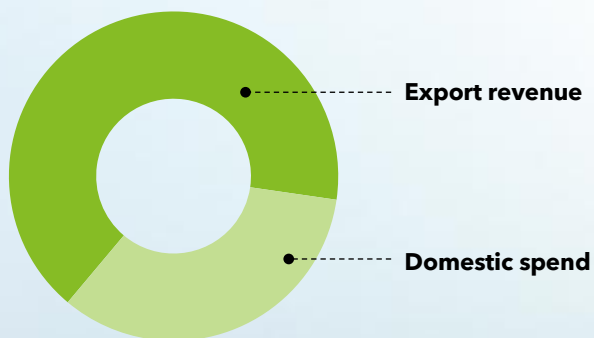
HortNZ represents the interests of approximately 4,300 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

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

Executive Summary

HortNZ supports efforts to improve consistency and clarity in the tax treatment of flood and erosion related expenditure however, the proposed approach does not fully reflect how recovery work is carried out in practice and is unlikely to resolve the core issues IRD is proposing to fix.

The main challenge is not uncertainty in the legislation, but the practical reality that recovery work is typically undertaken urgently and delivered as a single, combined activity. Costs are rarely separated between repair and replacement, making it difficult to apply a strict distinction. As a result, further tightening the rules may reduce flexibility without meaningfully reducing compliance burden or uncertainty.

HortNZ is concerned that treating all replacement activity as capital expenditure does not reflect the economic reality of post-event recovery. In many cases, growers are simply restoring productive capacity on a like-for-like basis rather than investing in new or improved assets. A more rigid approach risks creating outcomes that do not align with the nature of the expenditure.

Overall, HortNZ considers that a more practical solution would be to provide clearer guidance rather than relying solely on legislative changes.

Submission

HortNZ recognises Inland Revenue's objective of improving consistency and certainty in the Act however, we are not convinced that the proposed definition of what is classed as a repair after a flood or erosion event will fully achieve these outcomes in practice. While narrowing the scope of what qualifies as a repair may reduce interpretation, it does not address the underlying practical challenges growers face following flood and erosion events.

In our view, the primary difficulty faced by growers is not the interpretation of the law, but the reality that restoration work is often undertaken urgently and invoiced as a single, combined cost that does not distinguish between repair and replacement activities. Clarifying the legislation to narrow the scope of immediate deductibility will not resolve these practical issues.

HortNZ acknowledges the underlying tax principle that new capital assets are generally claimed over time. However, we consider that this approach does not fully reflect the reality of post-event recovery in the primary sector. In many cases, growers are not investing in new or improved assets but are simply restoring their land and productive capacity to its pre-event state on a like-for-like basis. Treating such expenditure as the creation of a new asset can therefore appear artificial, particularly where there is no enhancement or increase in value.

HortNZ does not agree with the suggestion that the boundary between repair and replacement is primarily an issue for smaller items such as plants and vines. In practice, this distinction arises across a wide range of land improvements, including tracks, irrigation systems, and structures. The issues paper provides no evidence to support this assertion, and in our view, the practical challenges of distinguishing between repair and replacement are driven more by how recovery work is undertaken and invoiced, rather than the size or type of asset involved.

1. Land interpretation

HortNZ notes that IRD acknowledges the common law meaning of land, which includes not only the soil but also fixtures attached to it such as buildings, structures and vegetation. Under that interpretation, the replacement of land improvements could reasonably be treated as repairing the land and therefore immediately deductible. However, IRD does not accept that this common law meaning applies in relation to flood-impacted land improvements.

HortNZ does not consider it appropriate to apply the common law meaning selectively in this way. Where there is no clear departure from the established meaning of land, that meaning should be applied consistently. IRD's position therefore appears to reflect a policy preference rather than one grounded in clear legislative language.

2. Alternative assistance

Outside of the stated questions in the paper, IRD is seeking views on whether landowners would prefer alternative forms of assistance such as:

- Cash grants (which were provided following Cyclone Gabrielle)

- Activation of a range of tax measures that enable the spread of unexpected income arising from insurance or other compensation payments following an emergency event
- Income equalisation scheme to even out income fluctuations by spreading their gross income from year to year.

While these options can help, they do not perform the same role as immediate deductibility. Cash grants are valuable as they provide upfront support, but they depend on government decisions and may not always be timely or consistent. Measures such as spreading insurance income or using the income equalisation scheme mainly assist with managing tax over time, but they do not address the immediate cashflow pressures of recovery. Immediate deductibility, by contrast, directly supports growers facing large upfront costs to restore their business. In our view, these options can complement each other, but they are not a like-for-like substitute.

3. Responses to Questions

Q. 1 Do you agree with the proposed clarification of the boundary between repairs to the land and the replacement of land improvements following flooding or erosion? Why/why not?

HortNZ **does not** agree with the proposed clarification in its current form. While we support the objective of improving certainty and consistency, excluding land improvements entirely from the scope of section DO 1(1)(c) risks creating an overly rigid framework that does not reflect the reality of post-event recovery. In many cases, growers are undertaking like-for-like restoration to return land and productive capacity to its pre-event state, rather than investing in new or improved assets. A blanket rule requiring all such expenditure to be amortised does not adequately recognise this distinction.

HortNZ notes that IRD acknowledges the common law meaning of land, which includes not only the soil but also fixtures attached to it, such as buildings, structures, and vegetation. Under that interpretation, the replacement of land improvements destroyed in a flood could reasonably be treated as repairing the land and therefore immediately deductible. However, IRD does not accept that this common law meaning applies to flood land improvements.

HortNZ does not consider it appropriate to apply the common law meaning selectively in this way. Where there is no clear departure from the established meaning of land, that meaning should be applied consistently. The Act does not explicitly exclude land improvements from section DO 1(1)(c), and IRDs position therefore appears to reflect a policy preference rather than one grounded in clear legislative language.

Of other concern is that IRD overall conclusion is that there seems to be no strong grounds for the immediate deductibility of the cost of replacing land improvements impacted by emergency events.

HortNZ does not agree that there are no strong grounds for immediate deductibility in these circumstances. Where expenditure is incurred to restore land and productive capacity to its pre-event state following a flood or erosion event, there is a credible basis for treating that expenditure differently from standard capital investment. In these

situations, growers are not making discretionary decisions to invest in new or improved assets but are responding to damage caused by events outside their control in order to continue operating. Treating like-for-like replacement as the creation of a new asset does not fully reflect this reality.

Q. 2 Are there practical situations when the proposed approach would be difficult to apply?

Q. 3 What are your views on the extent of compliance savings if all expenditure relating to destroyed land improvements were immediately deductible following flooding or erosion?

HortNZ considers that immediate deductibility would reduce compliance costs to a reasonable extent but not eliminate them entirely. The main benefit would be removing the need to separate repair and replacement expenditure, which is often difficult in practice where work is bundled and not clearly itemised. However, some compliance obligations would remain, including documenting expenditure and ensuring it relates to qualifying activities. Overall, while the compliance savings are unlikely to be uniform across all situations, we consider they would be meaningful in reducing complexity, particularly following significant flood or erosion events where current rules are hardest to apply.

Q. 4 Are there grounds for treating grapes grown to produce wine differently from other horticultural plantings when it comes to being able to access the section DO 6 option? If so, outline those grounds.

HortNZ **supports** extending the section DO 6 option to winegrowers. Section DO 6 allows a small amount of replanting in an orchard to be treated as a repair and deducted immediately, rather than being claimed over time as capital expenditure. Specifically, it allows up to 7.5% of a planting area to be replaced in a year (or up to 15% over three years) and treated as an immediate deduction. Extending this rule to grapes would provide greater certainty for winegrowers.

Q. 5 Have you used the section DO 6 option for any listed horticultural plants either following a flooding or erosion event or generally? Was it useful?

Q. 6 Is it clear what expenditure qualifies as a planting cost?

HortNZ's interpretation is that these costs are intended to include all costs associated with replanting, not just the cost of the plant itself. This would include costs such as labour, planting, site preparation and any supporting materials required to establish the plant. While this is a practical and commercially realistic reading of the provision, the legislation does not explicitly set out what is included, which may lead to differing interpretations. Clarifying that replacement expenditure covers the full cost of establishing a replacement plant would help ensure consistent application across the sector.

Q. 7

Do the proposed changes adequately address the lessee potential black hole issue?

Are there situations when lessees currently face black hole expenditure in relation to land improvements that are not addressed by the proposed change?

HortNZ **supports** the intent of improving clarity and ensuring that expenditure on land improvements does not fall into a black hole where no one can claim a deduction.

However, there are concerns with how the proposal operates in practice. In particular, the approach may result in the original grower, who incurred the cost of the improvement, being unable to claim the remaining deduction when they exit, with the benefit instead passing to the landowner or a subsequent lessee. This does not always align with who bore the cost and may require growers to rely on lease terms to recover value, which can be complex and uncertain.

Overall, while the proposal may not produce fair outcomes for exiting growers. Consideration should be given to whether an alternative approach, such as allowing the exiting grower to claim the remaining value would provide a simpler and more equitable outcome.