

SUBMISSION ON Water Services Bill

2 March 2021

TO: Select Committee (Health Committee)
NAME OF SUBMITTER: Horticulture New Zealand



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Introduction

Horticulture New Zealand (HortNZ) thanks the Select Committee for the opportunity to submit on the Water Services Bill and welcomes any opportunity to discuss our submission.

The Water Services Bill ('Bill') responds to the current situation whereby "*the current drinking water regulatory system is failing to provide necessary assurances that drinking water supplies across New Zealand are safe and reliable*" (as quoted in the Departmental Disclosure Statement), largely in response to recommendations from the Havelock North Drinking Water Inquiry. HortNZ understands it to be part of a broader package of three waters reforms, including the establishment of Taumata Arowai who will have the responsibility of administering the regulatory regime in the Bill.

This submission focuses on the likely implications for the horticulture industry, based on HortNZ's review of the Water Services Bill, and provides comment on specific sections or clauses of the Bill. Particularly our submission seeks to highlight the broad impacts this Bill will likely have and raise matters which the Select Committee may wish to consider further.

Background to HortNZ

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

HortNZ advocates for and represents the interests of 5000 commercial fruit and vegetable growers in New Zealand, who grow around 100 different crop types and employ over 60,000 workers. Land under horticultural crop cultivation in New Zealand is calculated to be approximately 120,000 hectares.

The horticulture industry value is \$6.39 billion and is broken down as follows:

Industry value	\$6.39bn
Fruit exports	\$3.5bn
Vegetable exports	\$0.7bn
Total exports	\$4.2bn
Fruit domestic	\$0.88bn
Vegetable domestic	\$1.28bn
Total domestic	\$2.19bn

It should also be acknowledged that it is not just the economic benefits associated with horticultural production that are important. The rural economy supports rural communities and rural production defines much of the rural landscape. Food production values provide a platform for long term sustainability of communities, through the provision of food security. The essential service that horticulture provides has been further highlighted through the Covid-19 response.

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

Executive Summary

HortNZ supports the underlying premise of the Bill, of providing a framework for a system that delivers safe drinking water, in the interests of public health. It is important the underlying legislation provides both a robust system, but one that recognises (and provides for) the range of scales and types of drinking water supplies which will be captured by this regulation.

We support the integration of the requirement to give effect to Te Mana o te Wai, consistent with freshwater regulation. As producers of healthy food, we support moving towards a system which improves the resilience and health of water for people.

The definitions of 'domestic self-supply' and 'drinking water supplier' will mean that there will be a large number within rural communities, including growers, that will be 'drinking water suppliers and have functions under the Bill/Act (Table 1). For many, the Bill represents a substantial shift in obligations. The Bill also represents a significant step change in the obligations of irrigation schemes around the country - many of which support horticultural land uses and which may have not been established for a drinking water function, but have evolved to fulfil this role over time.

The framework proposed in the Bill will add an additional layer of regulation for many growers, at a time when there are many other regulatory changes occurring.

The comments this submission makes on the Bill are made in the context of ensuring that the new framework is as workable as possible, enables a supported transition for rural suppliers and that duties under the Bill are proportional to the varying scale of water supplies in New Zealand.

Maintaining proportionality in the duties that apply is critical. The requirements and duties on supplier need to be commensurate to risk and reflect the scale of 'supply'. It is important that there remains a degree of flexibility and common sense within the framework – so that it does not become 'too hard' to supply water beyond your own home in rural communities, as this could lead to social and community welfare issues in rural communities.

A summary of HortNZ's specific submissions on the clauses of the Bill is provided in Table 2.

The implementation of the requirements in the Bill/Act and the support and guidance provided for (particularly small) water suppliers will be critical. This submission provides comments on key aspects which we consider will be important for implementation of the Act – including the need for guidance, templates and building on existing structures.

Comments on the Water Services Bill

Purpose of the Act (Bill)

Proportionality of the Bill

HortNZ notes that the intention of the Bill is to create a framework that is proportionate to the risk, scale and complexity of each drinking water supplier – we support this intent, the degree to which this is achieved is largely dependent on the regulations, and tools such as ‘acceptable solutions’ and templates, which are created by Taumata Arowai. In our view, maintaining a reasonable sense of proportionality is an important part in making sure that the impacts of this new framework are not unreasonable.

- Retain clause (c), relating to regulation being proportionate to the scale, complexity, and risk profile, as part of the purpose of the Bill in *Subpart 1 - Purpose and Overview*.

Capability

There will be significant variance in the scale, capacity and capability of ‘drinking water suppliers’ under the Water Services Bill. Capability building – through all levels of the system (e.g. not only at the local authority level, but also down to rural people e.g. a grower with a bore that supplies their packhouse) – will be critical to the successful implementation of this framework.

- Retain clause (d), relating to building capability, as part of the purpose of the Bill in *Subpart 1 - Purpose and Overview*.

Capability should be viewed not only in terms of the capability of the professional sector to provide services relating to water infrastructure and water safety, but also at the level of enabling practical on-the-ground solutions for everyday New Zealanders (and growers) who will likely find themselves a ‘drinking water supplier’ under this Bill.

Meaning of ‘Drinking Water’

HortNZ seeks to clarify that fruit and vegetable wash water is not considered ‘drinking water’ as this is already addressed by the Food Act 2014.

For additional clarity, HortNZ seeks to specifically exclude irrigation water and water used for the commercial washing of fruit and vegetables prior to sale from the definition of ‘drinking water’.

- Amend Section 6 ‘Meaning of drinking water’ to add:
‘to avoid doubt, does not include any water used by animals or for irrigation purposes that does not enter a dwelling house or other building in which water is drunk by people or in which other domestic and food preparation use occurs, and excludes the washing of fruit and vegetables prior to sale.’

Meaning of ‘drinking water supplier’, ‘drinking water supply’ and ‘domestic self-supply’

The way in which a ‘drinking water supplier’ and ‘drinking water supply’ are defined is critical to the scope and implications of the Bill – as all drinking water suppliers have duties under the framework proposed. All drinking water suppliers – with the exception of ‘domestic self-

suppliers’ – have duties under this framework (that are more significant than the existing Health Act framework for drinking water) and as a consequence, the Bill will pick up a large number of additional ‘drinking water suppliers’.

The definition of ‘domestic self-suppliers’ is such that it will have a very limited application in reality, we expect that it is likely that few rural properties will fit into this category.

Groups likely to be drinking water suppliers under the Bill/Act

There will be a large number of cases in the horticultural sector where growers do not fit within the ‘domestic self-supplier’ category – but might also be supplying drinking water on a very small scale (and only on their property). **Table 1**, includes scenarios that might occur within the horticultural industry. It demonstrates that the Bill will have wide-reaching implications for those who live and work rurally; many growers and/or packhouses will find themselves ‘drinking water suppliers’.

We note that in all cases set out in Table 1, we consider that there is an equal imperative as a domestic self-supplier, to provide safe water that themselves and staff will be consuming.

In practice, there is likely to be very little difference between Example H (one bore services house and accommodation) and Example I (separate bores for house and accommodation) – however the earlier would be considered a drinking water supplier. This highlights that there will be many cases in rural locations where inadvertently people will now be ‘drinking water suppliers’.

As a result, some water sharing arrangements may be disincentivised. Disincentivising sharing water infrastructure is likely to be economically inefficient, and may incentivise a greater number of shallow bores which may have increased environmental effects on hydraulically connected surface water. In these instances, unreasonably onerous requirements could have detrimental impacts. It is important that there is a common sense, capacity building approach taken by Taumata Arowai.

We are concerned about the potential scale of requirements for ‘suppliers’ which are of a similar scale to a domestic self-supplier. It may be appropriate to provide an exemption in these instances (i.e. where akin to domestic self-suppliers).

- Consider amending the definition of ‘domestic self-supply’ to include rural properties which may include multiple farm buildings (up to a defined scale) with one water source. Or consider providing an exemption for this situation.

Structure of businesses in the rural sector

In addition, in the rural sector there is a complex set up of trusts, land holding companies, equity farming, share farming, leases etc. (for example, a farm is owned by a family trust, of which the grower is a shareholder employee of the company which leases the house off the trust).

From our reading of the Bill, we do not interpret that this will impact on whether someone might be a domestic self-supply (e.g. Example E in Table 1) and that it instead is related to the exclusive supply of water from one source.

However, this may be a relevant consideration for Taumata Arowai in terms of duties under the Bill and who is the ‘operator’, or ‘owner’ of a supply.

Table 1 Drinking water supplier scenarios

Example	Interpretation of the Bill
A. Grower has their own water supply (e.g., bore) that supplies their own house only.	Domestic self – supply.
B. Grower has their own water supply (e.g., bore) that supplies their own house and also is used on-farm (e.g. irrigation)	Domestic self-supply. (On the assumption that irrigation water is not ‘drinking water’ or used for drinking)
C. Farm /orchard buildings which include drinking water (e.g. tearoom/staff room) (or situation where a grower with bore that services their house and their packhouse)	Drinking water supplier – therefore, bound by the duties of the Bill.
D. Grower has their own water supply (e.g., bore) that supplies their own house and seasonal worker accommodation facility for some part of the year.	Drinking water supplier – therefore, bound by the duties of the Bill.
E. Grower has their own water supply (e.g., bore) that supplies their own house. Separate bore supplies Seasonal Worker Accommodation.	Each individually considered a domestic self – supply. (NB: refer to discussion above about regarding legal structure of farm businesses – it is our interpretation that this is not dependent on ownership of the supply of user of the water)
F. Two properties share water supply from same bore.	Drinking water supplier – therefore, bound by the duties of the Bill. (Who is the ‘drinking water supplier’ dependant presumably on whose property which the infrastructure is located).
G. During a time of drought – water is shared with neighbours.	Section 34 applies if unplanned (which we consider a drought to be) and the supply is temporary - refer to specific commentary on this clause.
H. Grower has their own water supply (e.g., bore) that supplies their own house. On the same property, a separate bore supplies Seasonal Worker Accommodation (that is a single dwelling).	Each individually considered a domestic self – supply. (Note: we consider seasonal worker accommodation to be within the definition of a domestic dwelling – as it is principally used for residential purposes,).

Impact on irrigation schemes

HortNZ is also aware that the proposed Bill will have some significant implications on a number of irrigation schemes – which in many cases were primarily established to provide irrigation water however either knowingly or not are also used for drinking water.

There will be a number of irrigation schemes affected in different ways, for example:

- Water storage/ reticulated schemes that have been established with the purpose of providing irrigation water, as well as water for drinking (as part of the intent of the scheme).
- Irrigation schemes that clearly state in their water supply agreements that water is not for potable supply – however individuals chose to use that water as drinking water.
- Irrigation schemes where the water is used both for domestic supply as well as irrigation, but has end point treatment.

HortNZ supports the submission of Irrigation New Zealand seeking:

- Clarity around the definition of the roles/duties under the Bill/Act between primary and secondary drinking water suppliers (where they do not supply direct to consumers) and direct drinking water suppliers, and a further definition be added to make this distinction.
- To provide situations when a drinking water supplier who are entities, such as irrigation schemes, who supply water to domestic users where is not another supply available and the territorial authority has approved the supply of untreated water, to contract out duties and functions (such as implementing effective end-point treatment) under the Bill/Act to the territorial authority.

Effect and interpretation Te Mana o Te Wai

We support integration across NPSFM, by using the same definition for Te Mana o Te Wai. However what Te Mana o Te Wai means in this context will need to be fleshed out more, in terms of its practical application and the duties of drinking water suppliers. We understand this will be developed through Taumata Arowai's Māori Advisory Group.

There is opportunity for linkages into the NPSFM values setting processes (particularly for larger supplies).

It would be useful to clarify how the exemptions provided for under Clause 64 of the Bill are consistent with giving effect to Te Mana o Te Wai.

In HortNZ's opinion Te Mana o Te Wai is an integrating framework, that does provide for an overall judgement approach to achieving the Te Mana o Te Wai hierarchy of obligations overall, rather than requiring at all times and in locations, the health of freshwater is prioritised over the essential human health needs of people.

Part 2 – Subpart 1 Duties of drinking water suppliers

To supply safe drinking water

An expectation to provide safe water for drinking, is not in our view unreasonable. In addition, requirement to notify Taumata Arowai in situations where there is a reasonable likelihood that a supplier's drinking water is or may not be safe will enable Taumata Arowai

to have a more well-informed picture of drinking water in New Zealand and also provide support to drinking water suppliers.

However, it is important that there is an efficient, easy to use process for drinking water suppliers to notify and receive support from (keeping in mind that there will be a number of are 'everyday' people with a bore on their rural property who will be inadvertently 'drinking water suppliers' under the Bill – see Table 1 above), including:

- Clear guidance for small drinking water suppliers, that makes it clear when they might need to take action to fulfil their duties (e.g. situations where notification of Taumata Arowai is required, information reporting requirements etc).
- A clear and easy way to notify and communicate with Taumata Arowai.

To comply with drinking water standards

It is a reasonable expectation to comply with drinking water standards (up to the point of supply). However, as expressed above, it is important that there is appropriate proportionality for aspects such as monitoring obligations and liability. The requirements and duties on supplier need to be commensurate to risk.

To register supply

Registration of drinking water suppliers will assist Taumata Arowai in their role – including being able to provide support and capability building. However, as noted elsewhere in this submission, HortNZ seeks a greater transitional period for unregistered suppliers who will come under a new framework.

To take reasonable steps to supply aesthetically acceptable drinking water

Support the use of the language of 'take reasonable steps' – recognising that the aesthetic values are not safety related.

To provide sufficient quantity of drinking water

In general, for drinking water supplies, the provision of sufficient water 'to support the ordinary drinking water needs' is an expectation which aligns with public health outcomes and expectations of a 'drinking water supplier'.

This however may be an uneasy fit in situations outside of the local authority networks, where a system may not have been established for the purpose of providing drinking water however is being used for that purpose by the community.

This also has an interface with the RMA framework:

- A number of 'drinking water suppliers' that come under the new regime will not necessarily be of a scale that requires resource consent (many plans include a permitted activity rule for small volumes).
- Other users (e.g. those which may use one bore for their domestic supply as well as irrigation for example) will likely have a resource consent which enables them to take a specified amount of water. These consents may include reducing or ceasing takes at minimum flows or levels.
- Section 14 (Restrictions relating to water) of the RMA enables fresh water to be taken or used for 'an individual's reasonable domestic needs'.

Compliance rules setting prescribing the quantity of drinking water or a formula for determining the quantity of drinking water that is sufficient to support the ordinary drinking water needs of consumers will likely need to be factored into resource consent processes.

We note that Section 64 of the Bill grants Taumata Arowai the ability to grant exemptions to the requirements Part 3 of the Resource Management Act in a drinking water emergency – we support this being built into the Act.

Subpart 2 – Drinking water safety plans

An owner of a drinking water supply is required to have a drinking water safety plan.

Clause 31 states that a drinking water safety plan must be proportionate to the scale and complexity of, and the risks that relate to, the drinking water supply – we support this requirement being clearly expressed in the Bill.

To enable effective and efficient (and proportionate) implementation of the Bill it will be very important, especially for small rural suppliers, that there is guidance and templates in place to enable drinking water safety plans to be prepared by landowners.

The Regulatory Impact Statement mentions example of food control plans as way of managing requirements for smaller suppliers – allowing people to build template or custom plans based on their needs. An approach that is streamlined with other requirements, to make compliance for small suppliers possible, will be important.

It is also important the Taumata Arowai has enough time to establish these tools before regulatory requirements come into force.

Multi-barrier approach

Clause 31 requires that drinking water safety plans include a multi-barrier approach, which as an approach will:

- Prevent hazards entering raw water
- Include physical treatment to remove ‘particles, pathogens, and chemical and radiological hazards’
- Disinfection to ‘kill or inactivate pathogens’ and maintain the quality of water in the reticulation system

We seek clarification as to whether chlorination will be a requirement of supplies where there is end point treatment? Or would they otherwise require an exemption to be granted by Taumata Arowai.

It would be potentially uneconomic and inefficient (and also potentially undesirable) to chlorinate an entire supply if part or the majority was being used for irrigation purposes.

Chlorine is important for the fertility of soils being a nutrient for crops. Excessive chlorine can be toxic for plants; however we understand that at the levels typical of a municipal supply that there is not typically an issue for plant growth.

Clause 34 unplanned supply of drinking water

The ‘unplanned supply’ of drinking water is likely to be a common occurrence in rural New Zealand during dry periods.

The impact of a new regime has the impact to be especially profound in areas such as Northland, where there are lower socio-economic rural areas with a high proportion of small-

scale drinking water supplies. There are situations where individuals rely on collective good to support the vulnerable in the community.

For example, the situation of a grower with a small farm water supply from a well for their property, providing four neighbours (on small lots with rainwater supply) during periods of droughts, due to long waits for additional water from a water tanker (and in some cases limited ability to afford to source more water). This situation has been encountered numerous times (i.e. where these neighbours were completely reliant on this supply during a dry period). This situation is not unique in Northland; we understand there are numerous small-scale schemes which provide critical support to domestic water users over dry period where there are no other alternatives.

It is important that situations like this are not prevented, or prevented by overly onerous requirements; it would be unreasonable for example to require chlorination or other such requirements of drinking water suppliers.

Clause 34 sets out the requirements for the supply of drinking water on an unplanned basis – we support there being provision to enable this (provided the administration requirements are not unreasonably onerous/ there is an easy-to-use system in place).

HortNZ support the inclusion of the language ‘as far as reasonably practicable’ with regard to compliance with sections 21 and 22 – as this recognises that the situation by virtue of being unplanned cannot expect the full duties of a drinking water supplier to apply.

We seek confirmation that water-sharing in a drought situation would be considered definition of ‘unplanned’ in Clause 34, to ensure that situations – such as the one described above – would be captured.

Subpart 4 – Consumer complaints

Many water suppliers under this framework may not have a typical ‘consumer’ relationship – compared to that of being supplied water from a local authority network. As above, it would assist if templates and guidance were developed that consider the full range of rural scenarios which may occur, to avoid inefficient ad hoc approaches.

The requirement to ‘establish, maintain, and administer a consumer complaints process’ and report annually to Taumata Arowai on its consumer complaints process does not necessarily reflect the scale of some operations (which may be for example supply of water to their house and a packhouse).

Subpart 5 – Source water

Source water management plan

The requirement to prepare a source water management plan is likely to be more challenging for small suppliers – for example those whose supply is on their property but to more than a single domestic dwelling, or who operate a small supply in a voluntary capacity.

The ability/capability for Council to contribute information about risks to source water may be challenging given the number of drinking water suppliers (depending on how this information is provided).

Further clarity could be added as to the intent around the expectation to ‘have regard’ to values identified through NPSFM that relate to source freshwater body.

Suppliers to monitor source water quality

There is a requirement to monitor water at the abstraction point (and report monitoring to Taumata Arowai).

Clause (2) states that '*Compliance rules issued under section 48 may specify the monitoring requirements for source water that are proportionate to the scale and complexity of each drinking water supply and any known risks or hazards to the source of a drinking water supply*'.

It is critical that source water management plans are relative to scale and risk – template and guidance will be required to support implementation.

There is a requirement for drinking water supplier to monitor at the point of abstraction – this will likely be an additional requirement for some, we consider it necessary to consider:

- Whether in very small supplies, there should be a compulsory requirement to monitor source water/ how often source water is required to be monitored – if there end point treatment is provided.
- Challenges with monitoring may occur particularly in remote rural environments without easy access to labs.

Subpart 6—Standards, rules, directions, and other instruments

Acceptable solutions and verification methods for drinking water

Support acceptable solutions being a means of demonstrating compliance – there will need to be a range that cater for varying circumstances.

(We note that exposure drafts have been released, however that these are not currently open to formal consultation).

A consultation process when Taumata Arowai is developing standards, rule or other instruments (such as acceptable solutions) is important and should remain as part of the Bill – as provided for in *Section 52 Taumata Arowai consultation requirements*.

Acceptable solutions should also look to, as much as practicable, aligned with existing practice – rather than additional requirements (where not necessary). For example, Zespri GAP requires growers to test non-town supply water from the water source, or the way in which food safety regulations can be administered through GAP schemes such as NZ GAP.

Subpart 7—Drinking water supply register

Should fees or levies be introduced (by regulation), these should be proportionate to scale and not be unreasonable for small suppliers.

Subpart 8—Exemptions to requirements on drinking water suppliers

Exemption from duties of a drinking water supplier

HortNZ supports the ability for exemptions to be granted, where the circumstances are warranted.

There is limited detail in the Bill on the process for seeking/ establishing exemptions – including whether these have to be by application from an individual, or whether they may also be initiated by Taumata Arowai.

For the exemption examples provided in the Bill, e.g. “A set of farm buildings on a bore water supply might be exempted from requirements, on the condition that it samples and tests the bore water on a quarterly basis and the exemption is notified to the relevant territorial authority for inclusion on the land information memorandum relating to the farm.” – it should be clear how these are carried through into the legislative framework.

Further clarity on whether an exemption might be sought on an individual basis, or a class exemption would be useful.

Subpart 10—Authorisations

The details of authorisation of operators, and required skills, qualifications, experience will be set in regulations by Taumata Arowai, however it will be important that these are set at an appropriate scale (in terms of the scale of supply which requirements may apply to e.g. it may be appropriate to have different requirements for supplies servicing <25 people) – otherwise it may make it unfeasible for rural water supplies to operate.

The capacity building role of Taumata Arowai will be important as there is likely to be a significant number of ‘drinking water suppliers that did not previously have duties under the Health Act.

Subpart 11—Laboratory accreditation and testing

The expectation that laboratories are accredited is reasonable – however access to facilities in rural communities will need to be a consideration of Taumata Arowai.

Part 3 Enforcement and other matters

We note that the level of liability and penalties under the Bill are substantial – we urge the Select Committee to consider the penalties on voluntary very small-scale operators should be akin to those who undertake their duties in a professional capacity.

Monitoring and reporting on environmental performance of wastewater and stormwater networks

The Bill introduces new national-level reporting, monitoring and advisory functions for waste water and stormwater – including compilation of information, setting of environmental performance standards to be reported against, reporting on performance and promotion of good practice.

HortNZ supports the functions proposed for Taumata Arowai in respect of stormwater and wastewater, particularly in this it will assist in painting a better picture about the contribution of these networks to water quality outcomes in catchments.

Part 5 Amendments to the Local Government Act 2002

We urge further consideration as to how this might work in practice – for small rural supplies particularly – if local authorities were obliged to take over the management and operations of a ‘drinking water service’.

We also note concerns with regard to irrigation schemes and the management of this infrastructure in a situation where a local authority was obliged to provide the drinking water service.

Schedule 1 Transitional, savings, and related provisions

Transitional Arrangements

The Bill will require a significant step-change in water supply in New Zealand, particularly for rural communities. It is important that there is sufficient time and support in place to enable this.

The Bill includes transitional arrangements which provides 12 months for unregistered suppliers to register their drinking water supply (existing registered suppliers are carried over). The 'unregistered suppliers' category will be expansive – and capture a large number of small property scale rural drinking water supplies that have not previously been subject to requirements.

HortNZ is concerned that there will be too many new drinking water suppliers to register in the first year and that this will put a strain on the system, which will be newly establishing/just established.

The Bill also provides that, for drinking water safety plans – those supplying ≥ 500 for at least 60 days per year, must provide Taumata Arowai with a drinking water safety plan within 1 year of commencement, otherwise suppliers must provide Taumata Arowai with a drinking water safety plan within 5 years of commencement.

A suitable phase-in time, given the significant changes, is critical for successful implementation, especially with a new agency and the large number of small rural suppliers who face a lot more requirements.

HortNZ considers that the transitional period needs to be more nuanced, recognising that there will be significant work to be done at the local authority scale and to enable Taumata Arowai to collaboratively work with suppliers to build capability and resources.

- Amend the date for registration with Taumata Arowai for unregistered suppliers (i.e. those that have not required registration under the existing regulations) to 24 months, to enable more time for the necessary systems and support to be established.
- Clarify obligations relating to other matters in the Bill – other than drinking water supply plans – during the transitional period. E.g. are drinking water suppliers (of less than 500) required to undertake monitoring in the first 5 years?

Schedule 2 Amendments to enactments

Amendments to the Resource Management Act 1991

The Bill includes adding a new section (104G) requiring consideration of effects of activities on drinking water.

104G Consideration of activities affecting drinking water supply source water

When considering an application for a resource consent, the consent 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 54** of the **Water Services Act 2020**; 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 2020**.

This is a blanket requirement that applies to all resource consent applications (land use, subdivision, discharge, water etc.).

It is unclear where the burden of assessment falls on the Council or applicant. We also consider that the new section to be reasonably broad in its application.

- HortNZ seeks to clarify the relationship between new drinking water supplies and the renewal of consents for existing activities, that have the potential to impact on drinking water supplies.

Summary of outcomes sought by this submission:

Table 2: Comments on the Water Services Bill

Section of the Bill	Summary of HortNZ’s submission/outcome sought:
3 Purpose of this Act	<p>Retain clause (c) and in general the expectation throughout the Bill that duties (e.g., drinking water safety plans) are undertaken in a manner proportionate to the scale and complexity of, and the risks that relate to, the drinking water supply.</p> <p>Retain clause (d), in relation to building capability.</p>
6 Meaning of drinking water	<p>Amend the ‘Meaning of drinking water’ to add:</p> <p><i><u>‘to avoid doubt, does not include any water used by animals or for irrigation purposes that does not enter a dwelling house or other building in which water is drunk by people or in which other domestic and food preparation use occurs, and excludes the washing of fruit and vegetables prior to sale’.</u></i></p>
9 Meaning of domestic self-supply and domestic dwelling	<p>Consider amending the definition of ‘domestic self-supply’ to include rural properties which may include multiple farm buildings (up to a defined scale) with one water source. Or consider providing an exemption for this situation.</p> <p>Confirm that ownership structures common in rural business (e.g. trusts, leasing) do not impact on what is considered a domestic self-supply.</p>
New definition/ distinction between primary and secondary drinking water suppliers	<p>HortNZ support Irrigation NZ’s submission seeking a definition be added to distinguish between suppliers of water direct to consumers, compared to those suppliers who supply raw water to another supplier (i.e not direct to a consumer).</p> <p>(And that there be clarity provided regarding the duties under the Bill/Act between primary and secondary drinking water suppliers (where they do not supply direct to consumers)).</p>

<p>14 Effect and interpretation of Te Mana o te Wai</p>	<p>HortNZ support integration across NPSFM, by using the same definition for Te Mana o Te Wai. However what Te Mana o Te Wai means in this context will need to be fleshed out more, in terms of its practical application and the duties of drinking water suppliers.</p> <p>It would be useful to clarify how the exemptions provided for under Clause 64 of the Bill are consistent with giving effect to Te Mana o Te Wai.</p>
<p>24 Duty to take reasonable steps to supply aesthetically acceptable drinking water</p>	<p>Retain the phrasing ‘take reasonable steps’ – recognising that the aesthetic values are not safety related.</p>
<p>31 Drinking water safety plans</p>	<p>Clarification as to whether as part of a multi-barrier approach, chlorination will be a requirement of supplies where there is end point treatment? Or would they otherwise require an exemption to be granted by Taumata Arowai (or whether this can instead be managed through Acceptable Solutions)</p>
<p>34 Unplanned supply of drinking water</p>	<p>Retain provisions for unplanned supply. HortNZ support the phrasing ‘as far as reasonably practicable’ with regard to compliance with sections 21 and 22 – as this recognises that the situation by virtue of being unplanned cannot expect the full duties of a drinking water supplier to apply.</p> <p>We seek confirmation that water-sharing (e.g., amongst neighbours) in a drought situation would be considered definition of ‘unplanned’ in Clause 34.</p>
<p>Subpart 5 Source Water - 42 Source water risk management plans</p>	<p>Seek further clarity on the expectation to ‘have regard’ to values identified through NPSFM that relate to source freshwater body (in source water management plans).</p>
<p>43 Suppliers to monitor source water quality</p>	<p>Seek additional consideration of:</p> <ul style="list-style-type: none"> • Whether in very small supplies, there should be a compulsory requirement to monitor source water/ requirements on how often source water is required to be monitored – if there end point treatment is provided. • Challenges with monitoring may occur particularly in remote rural environments without easy access to labs.

Subpart 8—Exemptions to requirements on drinking water suppliers	Include in the Bill/Act, or regulations under the Act, detail on the process for seeking/establishing exemptions.
Subpart 7—Monitoring and reporting on environmental performance of wastewater and stormwater networks	HortNZ support Taumata Arowai’s proposed stormwater and wastewater functions.
Schedule 1 Transitional, savings, and related provisions	<p>Amend the date for registration with Taumata Arowai for unregistered suppliers (i.e those that have not required registration under the existing regulations) to 24 months, to enable more time for the necessary systems and support to be established.</p> <p>Seek additional clarity regarding obligations relating to other matters in the Bill during transition – other than drinking water supply plans – during the transitional period. E.g. are drinking water suppliers (of less than 500) required to undertaken monitoring in the first 5 years?</p>
Amendments to Resource Management Act 1991 (New section 104G)	Seek clarify regarding the relationship between new drinking water supplies and the renewal of consents for existing activities , that have the potential to impact on drinking water supplies.

Comments on the framework and implementation of the Act:

In many ways the precise impact of the Bill is uncertain until such time as Taumata Arowai formally consults on/publishes compliance rules, acceptable solutions, templates etc. However, we do wish to highlight is that it is important that requirements on drinking water suppliers under the eventual Act (and associated rules, regulations, acceptable solutions that will be developed) must be proportionate to the scale and level of risk, such that it is not unfeasible to supply water on their properties.

For rural areas where there is not a local authority reticulated network, unreasonably onerous requirements could have detrimental impacts. It is important that there is a common-sense, capacity building approach taken by Taumata Arowai.

- Ensure there are templates for Drinking Water Safety Plans and Source Water Risk Management Plans.

- Develop a risk-based approach for the application of the standards to suppliers. In the Horticulture sector there are likely to be a significant number of suppliers supplying to groups of less than 100 and less than 25. Very simple processes need to be established to achieve a high level of uptake of the regulations for the low-risk supplies of this scale.
- Provide guidelines, to help people to build capability, rather than requiring professional expertise small-scale situations to prepare drinking water plans.
- Make sure expectations and processes are clear and easy to follow – including clear guidance on when suppliers need to take action.
- Ensure regulations around skills, authorisations etc. are proportionate to the scale of supply and risk profile.
- Where possible/appropriate, acceptable solutions should be aligned with existing requirements/frameworks.