SUBMISSION ON

Acceptable Solutions

12 June 2025

To: Taumata Arowai (Water Services Authority)
Name of Submitter: Horticulture New Zealand
Supported by: Blackcurrants NZ, Hawke's Bay Fruitgrowers Association, NZ Apples and Pears Inc, NZ Kiwiberry Growers Inc, NZ Kiwifruit Growers Inc, Strawberry Growers NZ, Summerfruit NZ, Vegetables NZ Inc.

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Horticulture™ New Zealand
Ahumāra Kai Aotearoa

OVERVIEW

Submission structure

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Our submission

Horticulture New Zealand (HortNZ) thanks Taumata Arowai for the opportunity to submit on the proposed changes to Acceptable Solutions and welcomes any opportunity to continue to work with Taumata Arowai and to discuss our submission.

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

PART 1

HortNZ's Role

Background to HortNZ

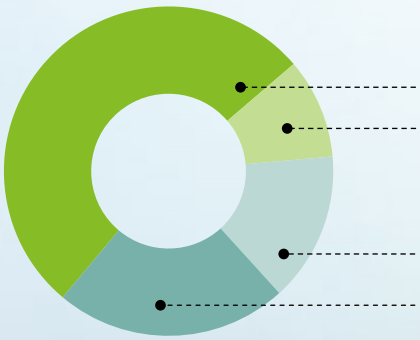
HortNZ represents the interests of approximately 4,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

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

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

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

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



Export value

Fruit $3.94bn

Vegetables $0.73bn

Domestic spend

Fruit $1.10bn

Vegetables $1.71bn

Industry value $7.48bn

Total exports $4.67bn

Total domestic $2.81bn

Source: Stats NZ and MPI

PART 2

Executive Summary

Acceptable Solutions

HortNZ supports the goal of ensuring safe drinking water and reducing the risk of harm from contaminated drinking water supplies. The compliance requirements for mixed-use rural drinking water supplies—those primarily used for farming or growing but that also provide drinking water—should match the level of risk.

HortNZ supports Taumata Arowai's work to ease compliance burden for small rural and community water supplies through the proposed Acceptable Solutions. We suggest a few practical changes, such as:

- Only requiring suppliers to share water quality monitoring results with users on request, rather than every year;
- Explicitly excluding workers' accommodation and staff smoko rooms buildings from the definitions of buildings for 'community purpose' or 'public buildings';
- Clarifying how standards apply when drinking water is supplied to staff camping, which is a frequent occurrence during seasonal peaks in horticulture; and
- Not including competency requirements or ensuring they are achievable for the typical owner of a mixed-use rural supply without additional expense.

HortNZ would appreciate the opportunity to work with Taumata Arowai to reduce duplication or demonstrate equivalence between industry assurance requirements and regulatory requirements to ease the compliance burden on growers.

Necessary Changes to the Water Services Act

HortNZ is concerned that current rules may unintentionally discourage rural neighbours from sharing water, a practice that's common in isolated areas. If a grower who shares water is held legally responsible for treatment, they may be forced to stop, leaving vulnerable people without access to safe drinking water.

To prevent this, HortNZ recommends that **growers not be held liable for treating water they share with neighbours**, when the sharing is unplanned, no payment is involved, and the recipients are not their staff, contractors or tenants. If the recipient cannot afford a treatment system, they should not be penalised.

However, when growers provide water to tenants or for workplace use (e.g., staff kitchens), they should take full responsibility for making the water safe. In those cases, we support practical changes to the Acceptable Solutions that make compliance achievable.

PART 3

Background Information

1. What is this consultation?

This consultation is about the regulations which aim to keep drinking water safe for human consumption. This consultation proposal clarifies the compliance pathway for drinking water supplies and aims to reduce effort and costs for some lower risk or smaller scale suppliers.

1.1. Horticulture and drinking water supplies

Many growers will be considered drinking water suppliers under the Water Services Act when they take water from a waterbody (not town supply) to use for drinking in workers' accommodation/staff smoko rooms or share with neighbours.

Under Taumata Arowai's proposal, most growers who are classified as drinking water suppliers will be eligible to follow a simplified compliance option through an "Acceptable Solution" instead of the more complex standard compliance pathway. Depending on their circumstance, growers could fall under any of the three Acceptable Solutions:

- Mixed-use rural supplies: where most of the water is used for farming or growing, even if the water also serves people;
- Small and medium-sized network supplies: where more than half the water is used for drinking, and they serve 500 or fewer people; or
- Self-supplied buildings: where more than half the water is used for drinking, they serve 500 or fewer people, and they serve buildings on the same or neighbouring properties all owned by the same person or group.

PART 4

Submission

2. General position

HortNZ supports the goal of ensuring safe drinking water and reducing the risk of harm from contaminated drinking water supplies. The compliance requirements for mixed-use rural drinking water supplies—those primarily used for farming or growing but that also provide drinking water—should match the level of risk.

HortNZ supports Taumata Arowai's efforts to reduce the compliance burden of rural mixed-use water supplies. In writing this submission, we have encountered multiple cases where the law is unclear or poorly suited to the reality of sharing water in rural areas. Remedying these situations may require amendments to the Water Services Act outside of the powers of Taumata Arowai.

3. Changes required to the Water Services Act

3.1. Immunity for unplanned and temporary sharing of rural mixed-use water supplies

HortNZ is concerned that current rules may unintentionally discourage rural neighbours from sharing water in unplanned circumstances—a practice that's common in isolated areas. If a grower who shares water is held legally responsible for treatment, they may be forced to stop, leaving vulnerable people without access to safe drinking water.

To prevent this, HortNZ seeks that **growers are not held liable for treating water they share with neighbours**—when the supply is unplanned and temporary, no payment is involved, and the recipients are not their staff, contractors or tenants. If the recipient cannot afford a treatment system, they should not be penalised.

However, when growers provide water to employees, tenants, or for workplace use (e.g., staff kitchens), they should take full responsibility for making the water safe. In those cases, we support practical changes to the Acceptable Solutions that make compliance more achievable.

Section 34 of the Water Services Act provides for an "unplanned supply of drinking water" when an unregistered drinking water supplier temporarily supplies water because:

- the usual supply has failed or is unsafe to drink and
- the people involved cannot reasonably access a sufficient quantity of water from a registered supply.

Under Section 34, temporary suppliers must still provide safe drinking water (Section 21) and comply with drinking water standards (Section 22). HortNZ is concerned that holding temporary suppliers to the same compliance standards as permanent ones may discourage water sharing due to liability risks. In cases where water is shared informally

and in good faith, we suggest a more permissive approach to ensure vulnerable people have access to safe drinking water in unplanned situations.

Sharing water out of goodwill is analogous to the exemption for food rescue organisations under the Food Act 2014. Section 352 of the Food Act, copied below, provides immunity for food donors, exempting them from civil and criminal liability due to their charitable intent.

> *352 Immunity of food donors*[1]
>
> *(1) A donor is protected from civil and criminal liability that results from the consumption of food donated by the donor if–*
>
> > *(a) the food was safe and suitable when it left the possession or control of the donor; and*
> >
> > *(b) as applicable, the donor provided the recipient with the information reasonably necessary to maintain the safety and suitability of the food.*
>
> *(2) In this section, donor means a person who donates food–*
>
> > *(a) in good faith for a charitable, benevolent, or philanthropic purpose; and*
> >
> > *(b) with the intention that the consumer of the food would not have to pay for it.*

A similar provision could be provided for mixed-use rural drinking water supplies where they are sharing water without compensation and the consumers are not employees, contractors or tenants. HortNZ recognises that this solution would require a change in the Water Services Act, so it may be out of scope for this particular consultation. However, our proposed immunity clause could be drafted as follows:

> *34* ***Immunity of*** *unplanned supply of drinking water*
>
> *(1) This section applies if drinking water is supplied on an unplanned basis.*
>
> *(2) In this Act,* ***unplanned****, in relation to the supply of drinking water, means the temporary supply of drinking water from an unregistered drinking water supply to any place where–*
>
> > *(a) the usual drinking water supply to that place has failed or is unsafe to drink; and*
> >
> > *(b) the persons at that place cannot reasonably access a sufficient quantity of drinking water from a registered drinking water supply.*
>
> ***(2A) A person who supplies drinking water on an unplanned basis is protected from civil and criminal liability that results from the consumption of water from their supply if the water–***

[1] Food Act 2014

(a) is provided without charge and

(b) the water is not supplied to tenants, employees or contractors of the supplier.

~~*(3) A person who supplies drinking water on an unplanned basis must=*~~

~~*(a) comply with sections 21 and 22, as far as is reasonably practicable; and*~~

~~*(b) notify Taumata Arowai immediately of the temporary drinking water supply arrangement and comply with any directions issued by a compliance officer under section 104.*~~

(4) If a person supplies drinking water from an unregistered drinking water supply on an unplanned basis for more than 60 days in any 12-month period, they must register the supply and comply with legislative requirements (except if a state of emergency declaration or transition period under the Civil Defence Emergency Management Act 2002 is in effect).

3.2. Immunity in civil defence scenarios

In the event of a declared emergency, if councils turn to private water supplies to supplement public drinking water, it should be clear that the council takes on the liability for that water supply. This clarification may sit in the Water Services Act or the upcoming replacement to the Civil Defence Emergency Management Act 2002.

3.3. Liability under irrigation schemes

An open question with the Water Services Act is the liability held by irrigation schemes versus their users for ensuring a safe drinking water supply. Irrigation schemes generally market their water as non-potable and for irrigation use only, but farmers or growers may decide to use that water for drinking at their own discretion.

While HortNZ understands that irrigation schemes can pass the responsibility to install end-point treatment devices onto their users via Section 28(3)(b) of the Water Services Act, it is unclear who bears the ultimate legal liability for installing the device and completing the accompanying compliance.

HortNZ seeks that this liability sit with the person responsible for deciding to use the water for drinking. For example, the grower who directs water to the workers' accommodation, not the workers themselves. This aligns with the requirements for a "Person Conducting a Business or Undertaking" (PCBU) under the Health and Safety at Work Act 2015.

4. Changes to mixed-use rural supplies Acceptable Solution

The following sections respond directly to the consultation materials.

When a mixed-use rural supply provides water to employees, tenants, or for workplace use (e.g., staff kitchens), an Acceptable Solution is an appropriate compliance option to provide assurance of safe drinking water.

We maintain that the focus of regulation and enforcement should be concentrated on water systems for larger populations, recognising the relatively low risk posed by small and temporary drinking water supplies.

4.1. Allowing end-point treatment systems that are not validated in some circumstances

At present, end-point treatment systems under the Acceptable Solution must be "validated" in accordance with international standards. Under Taumata Arowai's proposal, mixed-use rural supplies will be able to use unvalidated systems when supplying 25 or fewer people (potentially at much lower cost) which provide a sufficient dose of UV. A validated system will still be required if over 25 people are served with drinking water, or the drinking water is for a community purpose or in a public building.

Q. 2	Do you agree with the proposal to allow end-point UV disinfection systems that are not validated where 25 people or fewer are supplied and it is not a supply for a community purpose or public building?

AGREE

HortNZ supports a risk-based approach to compliance and recognises that allowing for systems that are not yet validated will reduce the cost-barrier to adopting end-point treatment devices. It may also allow for earlier adoption of new technologies.

Q. 3	Do you agree with the proposed situations where validated end-point UV disinfection systems will still be required?

AGREE

HortNZ seeks that workers' accommodation and staff smoko rooms are explicitly not considered buildings for 'community purpose' or 'public buildings'. If the drinking water is supplying fewer than 25 people, accommodation for staff or contractors living on site should not be treated differently than for residential dwellings tenanted by people who are not staff. We believe this aligns with Taumata Arowai's policy intent.

5. Requirement to provide information to consumers

The proposal will require mixed-use rural suppliers to provide:

- source water monitoring results to recipients of drinking water when available,

- annual advice on the need to test treated water and manage risks, and
- information to property owners who are required to install, maintain and test end-point treatment devices annually.

In practice, if a grower is considered a drinking water supplier under the Water Services Act, they will need to annually provide this information to their users who use some water for drinking.

Q. 6	Do you agree with the proposed requirements for suppliers to provide information to property owners and consumers on source water monitoring, annual testing and treatment advice, and (where necessary) what end-point treatment devices to install, maintain and test?

DISAGREE FOR MIXED-USE RURAL SUPPLIES

While this is important information to have available, HortNZ seeks that this information is **made available on request** but not necessarily proactively provided.

Providing this information to consumers would be onerous for mixed-use rural supplies providing water to their own staff or contractors. For example, if an orchard has 50 backpackers camping on their property during the picking season who will leave within a month, it would be onerous for the property owner to provide this information each time a new person joins the orchard.

Communications around drinking water safety should be reserved for important alerts, so that people pay attention to the critical information when action is needed.

We support annual testing of source water quality and would not support more frequent testing requirements.

Industry assurance programmes such as New Zealand Good Agricultural Practice (NZGAP) and GLOBALG.A.P. are used by commercial growers to access domestic and export markets. These compliance systems require assurance of safe drinking water for staff, and management of food safety risk from all water sources associated with production.[2] HortNZ would appreciate the opportunity to work with Taumata Arowai to reduce duplication or demonstrate equivalence between industry assurance requirements and regulatory requirements to ease the compliance burden on growers.

[2] NZGAP, GLOBALG.A.P.

6. Other Discussion Questions

This section responds to the discussion questions of relevance to the horticulture sector that have not been covered in prior sections of this submission.

Q. 1	Do you agree that the proposal for two new acceptable solutions will make it easier for water suppliers to identify what Acceptable Solution to comply with?

AGREE

HortNZ supports this approach and any efforts to make the compliance requirements easier to understand.

Q. 4	Do you agree with the proposal to remove some end-point treatment system requirements that are in the current Acceptable Solutions?

NEUTRAL

The removal of some technical standards for end-point treatment systems falls outside of HortNZ's area of expertise, but in general, we support streamlining compliance requirements to be fit for purpose.

Q. 9	Do you agree with the proposed changes to the pre-requisite monitoring?

AGREE

HortNZ supports the use of guidance to provide recommendations where strict compliance requirements are deemed unnecessary.

Q. 12-13	Do you agree with the proposed changes to the monitoring requirements? Do you agree with the proposed post-treatment monitoring requirements for self-supplied buildings?

SOMEWHAT AGREE

HortNZ supports monitoring requirements that match the size, complexity and risk level of supplies. We support removing the post-treatment monitoring requirement from the Acceptable Solutions for mixed-use rural and small and medium networked supplies given the impracticality of accessing users' private property. If source water is monitored annually and treated consistently, post-treatment monitoring should not be required.

Q. 14	Do you agree with the proposed requirements when there is an exceedance of base population limits?

SOMEWHAT DISAGREE

HortNZ recognises the need for a stricter approach when the risk to human health increases with a population increase. This will occur annually at seasonal peaks on horticultural properties of a certain scale.

The proposed requirements include weekly monitoring when the base population exceeds 100 people (for 2 or 3 buildings) or 500 people (for a single building). **It is unclear how this would apply if people on the property are camping**, which is sometimes the case for seasonal workers during harvest.

Weekly testing is a very high frequency. This could be impractical or require significant expense, especially in rural areas and if the style of testing is lab-based and not local. The testing regime should be based on risk of contamination and should not be more onerous for mixed-use rural suppliers than the frequency required for council supplies.

Q. 15	Do you agree with the proposal that end-point treatment is not required in a downstream supply which provides centralised treatment?

AGREE

HortNZ supports that a town or council would take responsibility for treatment where they are downstream from a mixed-use rural supply.

Q. 16	Do you agree with the proposal to include competency requirements?

DISAGREE

Any competency requirements should be achievable for the typical owner of a mixed-use rural supply without additional expense. Many horticultural businesses are family owned and do not operate at the scale where they can afford a staff member dedicated to compliance.

Q. 17	Te Mana o te Wai: Do you consider that the proposed changes in this document will help to give effect to Te Mana o te Wai?

AGREE

Te Mana o te Wai is about balancing human health needs with other uses of water. The key is balance, which this proposal achieves for mixed-use rural supply.

Q. 18	Guidance needs: What additional support is needed to help suppliers and property owners understand their responsibilities? What topics would you like to see covered in guidance? What format(s) would you like guidance to be provided in, e.g. written, webinars? What channels should we use to get information to the people who need it?

EXTENSIVE GUIDANCE NEEDED

The compliance requirements associated with the Water Services Act are extensive and will present a big change for our industry. We have heard from multiple growers who have had trouble understanding their requirements under the Act with the currently available information.

Specific guidance with case studies will be needed for supplies in the horticulture industry. HortNZ would welcome the opportunity to work with Taumata Arowai to ensure guidance is relevant and helpful for growers. We can also assist with reaching growers through our communications channels.

Q. 19	Implementation concerns: Are there any barriers to adopting these changes and how can they be addressed?

YES

There will inevitably be barriers when introducing new regulatory requirements. The most pressing will be helping people understand their obligations under the law. There will also be barriers of cost and the effects of the compounding burden of compliance on growers, who also have to meet standards under the Resource Management Act, the Food Act, social practice, health and safety, domestic and export market requirements and more.

Barriers will also include the practicality of meeting testing requirements – for example, lab-based testing may be impractical and difficult to access for rural supplies in isolated areas, particularly because labs require water samples to be kept at a certain temperature in transit.

Q. 20	How Acceptable Solutions are presented: Is it better to have one Acceptable Solution that covers all three scenarios or is it better to keep them as separate documents?

SEPARATE DOCUMENTS

Separate documents allow for users to see only those requirements which apply to them, which reduces how overwhelming the requirements appear to be.