

SUBMISSION ON

Targeted changes to the RMA

5 April 2024

To: Hon Chris Bishop, Minister Responsible for RMA Reform

Name of Submitter: Horticulture New Zealand

Contact for Service:

Michelle Sands

General Manager Strategy and Policy

Horticulture New Zealand

PO Box 10-232 WELLINGTON

Ph: 021 610 653

Email: michelle.sands@hortnz.co.nz

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Our submission

Horticulture New Zealand (HortNZ) thanks Hon Chris Bishop for the opportunity to submit on the targeted changes to the Resource Management Act 1991 (RMA) and welcomes any opportunity to continue to work with Hon Chris Bishop and to discuss our submission.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below. In our view these suggestions are targeted, practicable and in line with the government's stated priorities to unlock development and investment in horticulture while achieving good environmental outcomes.

HortNZ's Role

Background to HortNZ

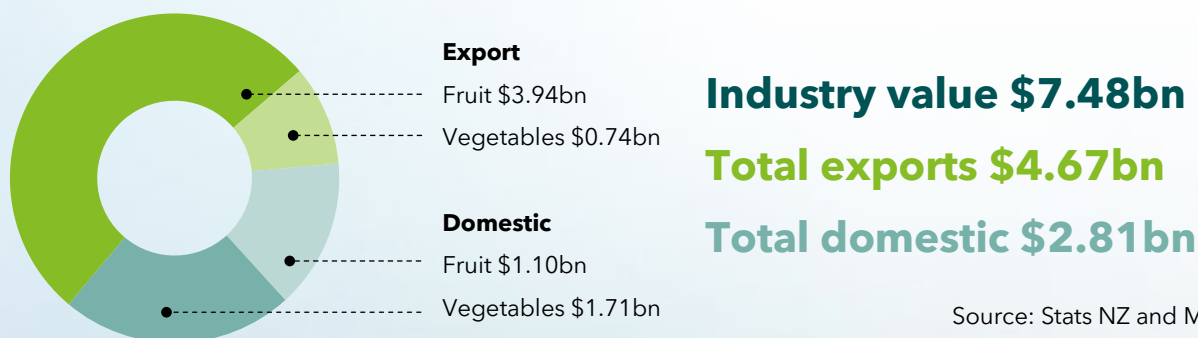
HortNZ represents the interests of approximately 4,200 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

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.



HortNZ's Resource Management Act 1991 Involvement

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



Executive Summary

Enable the supply of fresh fruits and vegetables

The supply of fresh fruits and vegetables should be enabled as a matter that all RMA practitioners should have particular regard to under Section 7 (Other Matters) of the Resource Management Act 1991 (RMA).

Provide permitted activity for discharges from Commercial Vegetable Production

Discharges from Commercial Vegetable Production (CVP) should urgently be made a permitted activity via an amendment after Section 70 of the RMA, managed with a Certified Freshwater Farm Plan. This should be recognised in priority RMA amendments in May 2024 as a targeted and practicable change in line with the government's stated priorities.

Improve the definition of Te Mana o te Wai

Clearer definitions of "Te Mana o te Wai" and "human health" are needed to support decision making that recognises the fundamental trade-offs necessary to achieve environmental improvements while keeping the people and economy healthy.

Ensure access to crop survival water

Crop survival water, meaning just the amount of water necessary to prevent the loss of horticultural crops for human consumption, should be afforded the same protections as stock drinking water under Section 14 of the RMA.

Improve freshwater farm plans

Definitions of "auditor" and "certifier" should be amended in Part 9a of the RMA to align with international standards. Regional councils should have the option to approve a "freshwater farm plan standard" that is equivalent to national requirements. In addition, a national body under the Ministry for the Environment should be created to approve industry assurance programmes, rather than requiring each regional council to approve the same programmes.

Prioritise resilient regional infrastructure

Enabling the production and transportation of fresh fruits and vegetables and providing freshwater harvesting and storage should be relevant factors for deciding whether a matter is a proposal of national significance under Section 142 of the RMA.

Protect highly productive land for primary production

Highly productive land for primary production should be protected as a matter of national importance under Section 6 of the RMA. The National Policy Statement for Highly Productive Land (NPS-HPL) should be amended to refer to “primary production” rather than “land-based primary production” throughout to allow for greenhouses and ancillary activities. Mapping requirements in the NPS-HPL should allow some flexibility for LUC 3-8 to refocus classification on land that is best suited for high economic input from primary production.

Submission

1. Enable the supply of fresh fruits and vegetables

Fresh fruit and vegetables are nationally significant for the health of the nation, for domestic nutrition and food security and for export value as low emissions, high value products.

As such, the supply of fresh fruits and vegetables should be enabled as a matter that all RMA practitioners should have particular regard to under Section 7 of the Resource Management Act 1991 (RMA). This wording is preceded in Section 129 of the repealed Natural and Built Environment Act 2023¹ and Section 3.33 of the National Policy Statement for Freshwater Management (NPS-FM) 2020².

This proposal aligns with the Government's target to double export value in the next ten years³ and coalition agreements to lift New Zealand's productivity and economic growth to increase opportunities and prosperity for all New Zealanders and "grow the economy to ease the cost of living"⁴.

Proposed amendment to the RMA Section 7

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(ba) the efficiency of the end use of energy:

(bb) enabling the supply of fresh fruits and vegetables:

(c) the maintenance and enhancement of amenity values...

¹ [Natural and Built Environment Act 2023 No 46 \(as at 23 December 2023\), Public Act 129 National planning framework must provide direction on certain matters - New Zealand Legislation](#)

² This section was quashed only due to deficiencies in the consultation process, not due to the content of the policy. [National Policy Statement for Freshwater Management 2020.pdf \(environment.govt.nz\)](#)

³ [National sets bold target for export growth](#)

⁴ [National ACT Agreement.pdf \(nationbuilder.com\)](#), [NZFirst Agreement 2.pdf \(nationbuilder.com\)](#)

2. Provide permitted activity for discharges from Commercial Vegetable Production

The environmental effects of Commercial Vegetable Production (CVP) should be managed with a permitted activity standard, implemented through certified freshwater farm plans, with additional requirements for CVP within catchments below national bottom lines. This is a targeted and practicable amendment to national direction that replaces the Sustainable Vegetable Growing Areas provision (SVGA), which was quashed from the NPS-FM. This amendment should be incorporated into the most urgent RMA amendment bill in May 2024.

Like the implementation of new Significant Natural Areas⁵, an urgent RMA amendment is needed for vegetables in recognition that existing and expected new rules are unworkable. Upcoming Environment Court decisions on Waikato PC1 and Horizons PC2 could lead to approximately 40% of New Zealand's vegetable production occurring under impracticable rules.

On 19 March 2024, HortNZ General Manager of Strategy and Policy Michelle Sands wrote a letter to Hon Ministers Penny Simmonds, Todd McClay and Nicola Grigg outlining a potential RMA amendment to establish a permitted activity for discharges from CVP.⁶ This amendment should be accompanied by a definition for CVP.⁷

This proposal relates to coalition agreement priorities to amend the RMA to allow farmers to farm and improve Farm Environment Plans, so they are more cost-effective and pragmatic for farmers⁸ and to the National Party's Primary Sector Growth Plan⁹.

HortNZ agrees with the intent of the Primary Sector Growth Plan National Environmental Standard (NES) CVP proposal but recommends this different approach to avoid unintended consequences where consents might be triggered every phase of crop rotation or when a business turns over but does not expand.

Specific recognition is needed for the practice of crop rotation. Sustainable vegetable production operates on changing pieces of leased and owned land to manage soil health and pest and disease pressure. Certified freshwater farm plans must be sufficient to allow operators to manage their discharges while changing location within a catchment.

Proposed amendment to be inserted after the RMA Section 70

Rules relating to the discharge of a contaminant to water or land from Commercial Vegetable Production.

1. Despite section 15 and section 70, the discharge of contaminants to land and water from Commercial Vegetable Production are a permitted activity provided

⁵ [Speech to the New Zealand Planning Institute | Beehive.govt.nz](#)

⁶ [Permitted-Activity-for-CVP-Ministers-Simmonds-McClay-and-Grigg.pdf \(hortnz.co.nz\)](#)

⁷ The proposed definition is based on the Commodity Levies Act 1990 and the first consent decision under Environment Canterbury PC7: [PC7-Test-Consent-Summary.pdf \(hortnz.co.nz\)](#).

⁸ [National ACT Agreement.pdf \(nationbuilder.com\)](#), [NZFirst Agreement 2.pdf \(nationbuilder.com\)](#)

⁹ ["Primary Sector Growth Plan"](#)

that all Commercial Vegetable Production over 5 ha is managed with a Certified Freshwater Farm Plan in accordance with Part 9A.

2. In catchments where the nitrogen related attributes are below the NPS-FM bottom lines the following additional measures must also be included within the certified freshwater plan.
 - a. Demonstrate participation in research to reduce water quality impacts of Commercial Vegetable Production, or
 - b. Demonstrate participation in catchment scale projects to improve environmental outcomes.
3. This section prevails over any CVP rules and policies within Regional Plans and has immediate effect.

Proposed amendment to be inserted after the RMA Section 2

2 Interpretation

Commercial vegetable production means the following vegetables grown for commercial purposes:

A. Artichokes, Asian vegetables, beetroot, boxthorn, brocco flower, broccoli, broccolini, Brussels sprouts, burdock, cabbage, capsicums, carrots, cauliflower, celeriac, celery, chilli peppers, chokos, courgettes, cucumbers, eggplant, Florence fennel, garland chrysanthemum, garlic, gherkins, herbs, Indian vegetables, kohlrabi, kumara, leeks, lettuces, marrows, melons, okra, onions, parsnips, potatoes, puha, pumpkin, purslane, radishes, rakkyo, rhubarb, salad leaves, salsify, scallopini, scorzonera, shallots, silverbeet, spinach, spring onions, sprouted beans and seeds, squash, swedes, sweetcorn, taro, tomatoes, turnips, ulluco, watercress, witloof, yakon, yams, zucchinis; and

B. The hybrids of the vegetables listed in subparagraph a.

For the avoidance of doubt, the following are not commercial vegetable production: the production of apples, asparagus, avocados, babacos, beans, berry crops, casanas, cherimoyas, citrus, feijoas, figs, guavas, kiwifruit, kiwiberries, loquats, passionfruit, pears, peas, persimmons, quinces, sapotes, summer fruit(including apricots, cherries, nectarines, peaches, and plums), and tamarillos ,tree leaf crops (including tea); and any hybrids of these crops.

3. Improve the definition of Te Mana o te Wai

The definition of Te Mana o te Wai (TMOTW) provided in section 1.3 of the NPS-FM causes some confusion, with councils placing too much weight on protecting health of freshwater for the well-being of the wider environment without due consideration to the second sentence about restoring the balance between water, the wider environment and community, which fundamentally requires trade-offs.^{10, 11}

Activities that support human health, including domestic food supply, should be prioritised within environmental limits. A wholistic definition of “human health needs” will better encompass the wider factors that encompass the physical well-being of New Zealanders. The proposed definition below is based on the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the World Health Organisation (WHO) discussion on the right to health.¹²

Many activities that are important for human health, such as vegetable production, are not without environmental effects, but a balanced approach should recognise the importance of food to human health needs for the nutrition and well-being of New Zealanders.

These recommendations relate to the first RM reform bill to be introduced in May 2024, which we raised in our Submission on Fast Track Consents and Te Mana o Te Wai in consenting decisions¹³.

This aligns with government priority to “rebalance Te Mana o te Wai to better reflect the interests of all water users”¹⁴ and “Support the efficient allocation of freshwater”¹⁵.

Retain the TMOTW hierarchy of obligations within the NPS-FM but refine the concept of TMOTW to ensure better and more consistent interpretation.

Proposed amendment to the RMA Section 2 Interpretation

Introduce definition: Fundamental concept - Te Mana o te Wai Concept means (1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community, **having regard to the hierarchy of obligations and using an overall judgment approach.**

Introduce definition: **Human health needs means underlying determinants of health, including:**

¹⁰ [National Policy Statement for Freshwater Management 2020.pdf \(environment.govt.nz\)](#)

¹¹ This concept is explored in the recent Proposed Otago Regional Policy Statement decision, copied in the appendix of this submission.

¹² <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet31.pdf>

¹³ [SUBMISSION-ON-FAST-TRACK-CONSENTS-AND-TE-MANA-O-TE-WAI-FINAL.pdf \(hortnz.co.nz\)](#)

¹⁴ [coalition agreement between National and ACT](#)

¹⁵ [“Blueprint for a Better Environment” policy](#)

- **Safe drinking water and adequate sanitation**
- **Safe food**
- **Adequate nutrition and housing**
- **Healthy working and environmental conditions**

4. Ensure crop survival water

Provision for crop survival water, meaning just the amount of water necessary to prevent the loss of horticultural crops for human consumption during times of low flow, should be afforded the same protections as stock drinking water under Section 14 of the RMA.

This aligns with government priorities and coalition agreements to “develop efficient and equitable methods for water allocation”¹⁶ and “cut red tape and regulatory blocks on irrigation”¹⁷.

Proposed amendment to the RMA Section 14

14 Restrictions relating to water

3. A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if–
 - a. the taking, using, damming, or diverting is expressly allowed by a national environmental standard...
 - b. in the case of fresh water, the water, heat, or energy is required to be taken or used for–
 - i. an individual’s reasonable domestic needs; ~~or~~
 - ii. the reasonable needs of a person’s animals for drinking water; **or**
 - iii. **the reasonable needs of crops for survival water,**–

and the taking or use does not, or is not likely to, have an adverse effect on the environment...

¹⁶ [“Blueprint for a Better Environment” policy](#)

¹⁷ [coalition agreement between National and NZ First](#)

5. Improve freshwater farm plans

Freshwater farms plans are an important regulatory tool. The ability to undertake freshwater farm planning in an integrated manner allows industry to efficiently achieve regulatory and market requirements and drive sustainable outcomes. Changes are needed, however, to better incorporate industry assurance schemes.

The assurance process for Freshwater Farm Plans should be aligned with international practice, especially the concepts of certification and audit, to reduce complexity and improve credibility.

This aligns with the government's priorities to "support Freshwater Farm Plans with clear standards to improve the consistency of Freshwater Farm Plans across the country and potential integration with other farm management systems to avoid duplication",¹⁸ "support Farm Environment Plans administered by regional councils and targeted at a catchment level"¹⁹ and "improve Farm Environment Plans so they are more cost-effective and pragmatic for farmers"²⁰.

5.1. Improve definitions of auditor and certifier

To achieve better integration, amendments to the definitions of "auditor" and "certifier" are needed to acknowledge New Zealand's obligations to legislate consistently with international practice. This amendment will support the intent of Section 217KA and the Ministerial Standard being developed to approve industry organisations to audit and certify freshwater farm plans.

Proposed amendment to the RMA Part 9A Freshwater Farm Plans 217B

217B Interpretation

auditor means a person who—

- a. is appointed under section 217K; ~~and~~ **or**
- b. **is employed by an approved industry organisation under Section 217KA; and**
- c. meets the criteria prescribed in regulations made under section 217M(1)(h)

certifier means a person who—

¹⁸ ["Blueprint for a Better Environment" policy](#)

¹⁹ [coalition agreement between National and NZ First](#)

²⁰ [coalition agreement between National and ACT](#)

- a. is appointed under section 217K; ~~and~~ or
- b. **is employed by an approved industry organisation under Section 217KA; and**
- c. meets the criteria prescribed in regulations made under section 217M(1)(h)

5.2. Introduce definition of freshwater farm plan standard

We seek that the content of a freshwater farm plan can also be provided for through an approved “freshwater farm plan standard”. The standard will be approved to demonstrate that it meets the purpose and content requirements of Part 9A of the RMA and approved against criteria in the Ministerial Standard under Section 217KA of the RMA. This method recognises that there are multiple ways to achieve the aims of freshwater farm plans, such as a benchmarked standard developed by industry that is tailored to horticulture.

Proposed amendment to the RMA Part 9A Freshwater Farm Plans 217B

217B Interpretation

freshwater farm plan standard means a set of publicly available specified requirements approved by a Regional Council as equivalent to 217F (1) (a)-(e).

5.3. Provide flexibility for approval of industry assurance schemes

Greater flexibility is needed in the way that industry organisations can be approved, such that organisations that operate nationally can apply for national recognition against Ministerial Standards, and regional councils can choose to defer to national approval of industry organisations.

Proposed amendment to the RMA Part 9A Freshwater Farm Plans 217KA

217KA Regional council may approve industry organisation to provide certification or audit services

Approval of Regional council may approve industry organisation to provide certification or audit services.

(1) A **national body under the Ministry for the Environment, or a** regional council may give approval to an industry organisation that applies to the council to provide certification and audit services under this Part if the council is satisfied that the organisation meets the standards issued under subsection

(1a) **An industry organisation, if operating nationally on behalf of its members, may apply for national recognition under the national body. A Regional Council may accept the national body approval of that industry organisations to operate in their region.**

(2) The Minister may, by notice in the Gazette, issue standards by which industry organisations must be assessed for the purpose of determining their suitability to be an approved industry organisation...

6. Prioritise resilient regional infrastructure

Proposals of national significance should also include projects that enable the production and transportation of fresh fruits and vegetables. This will allow roads, flood protection and ports for key horticultural areas to be elevated in the consenting process due to their strategic importance for domestic food supply and export value. Food security has been recognised as a resource management issue in regional plans²¹.

More information about how road closures in the aftermath of Cyclone Gabrielle prevented the transport of fresh produce from Gisborne and contributed to escalating grocery prices in HortNZ's submissions on the Ministerial Inquiry into Land Use²² and on the Proposed National Policy Statement for Natural Hazard Decision-Making²³.

Harvesting and storage of freshwater is also nationally significant to meet increasing demand for water, to manage water scarcity conditions and to provide resilience to the effects of climate change. This value was recently recognised in the Proposed Otago Regional Policy Statement decision.²⁴

This proposal aligns with the Government's stated priorities to "make it easier to consent new infrastructure", "cut red tape and regulatory blocks on irrigation, water storage, managed aquifer recharge and flood protection schemes", "strengthen international supply networks" and progress climate adaptation "to protect lives and livelihoods".²⁵

Proposed amendment to the RMA Section 142

3. In deciding whether a matter is, or is part of, a proposal of national significance, the Minister may have regard to—

²¹ The Proposed Otago Regional Policy Statement decision (March 2024) recognises food security as a significant resource management issue (para 10) and a value impacted by climate change (para 28). [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](#)

²² [23.04.06 HortNZ-FINAL-Submission-on-Ministerial-Inquiry-Land-Use.pdf](#)

²³ [23.11.15 HortNZ FINAL Submission on NPS-NHD.pdf](#)

²⁴ [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](#) (para 463).

²⁵ [coalition agreement between National and NZ First, Blueprint for a Better Environment.pdf \(nationbuilder.com\)](#)

- a. any relevant factor, including whether the matter–
 - i. has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or...
 - v. results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or
 - vi. is critical to the production and transportation of fresh fruits and vegetables; or**
 - vii. provides for harvesting and storage of freshwater; or**
 - viii. involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or...

7. Recognise national importance of Highly Productive Land

The purpose of the NPS-HPL is to prioritise primary production on highly productive land. Protection of highly productive land should be a matter of national importance under Section 6 of the RMA because productive soils are a limited resource of strategic importance for New Zealand’s food production.

This wording is precedent as a system outcome in Section 6 of the repealed Natural and Built Environment Act 2023²⁶.

This aligns with the government’s priority to “Allow normal rural activities on Highly Productive Land.”²⁷

Proposed amendment to the RMA Section 6

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

²⁶ <https://www.legislation.govt.nz/act/public/2023/0046/latest/LMS846032.html>

²⁷ [“Getting Back to Farming” policy](#)

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(bb) the protection of highly productive land for use in primary production, both now and for future generations:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna...

7.1. Recognise all primary production under the NPS-HPL

HortNZ seeks allowances for the construction of greenhouses, packhouses, seasonal worker accommodation, and covered crop protection on highly productive land, in recognition that buildings are an integral part of horticulture.

Greenhouses are a highly efficient growing system used to produce over 90% of the tomatoes, capsicum and cucumbers grown in New Zealand.²⁸ Greenhouses often locate on highly productive land, in part to be near the same ancillary activities used by outdoor growers.

Including the 31 ha of greenhouse expansion predicted by 2030, less than 0.009% of highly productive land would be used for this purpose. HortNZ wrote an extensive submission on this subject in response to an October 2023 consultation from the Ministry for the Environment and the Ministry for Primary Industries.²⁹

An amendment to the National Policy Statement for Highly Productive Land (NPS-HPL) to allow for these key horticultural buildings on highly productive land will get back to the original purpose of the national direction – to enable productive use of productive land.

There is no robust Section 32 assessment or cost benefit analysis that supports why the gazetted policy limited protecting highly productive land for soil reliant “land-based primary production”. In implementation, councils are prohibiting other forms of primary production and supporting activities rather than looking to support and enable New Zealand’s wider domestic and export food production system.

Ministry for the Environment guidance remains obstructive to these food producers. There is no Section 32 assessment or cost benefit analysis to support suggestions that greenhouses should establish outside of highly productive land or in urban areas and no consideration of the corresponding effects in doing so.

²⁸ <https://www.rnz.co.nz/national/programmes/ninetoon/audio/2018932622/gns-scientist-wants-greenhouse-growers-to-consider-geothermal-heat>

²⁹ [23.10.30_HortNZ-FINAL-Submission-on-NPSHPL-Amendments.pdf](#)

The focus of the NPS-HPL should return to its original purpose, to avoid the loss of highly productive land to urban expansion and rural lifestyle development.

This amendment aligns with the National Party's "Getting Back to Farming" policy, which calls to, "Allow normal rural activities on Highly Productive Land -- Change the National Policy Statement for Highly Productive Land to allow a broader range of productive rural activities such as...vegetable processing."³⁰

Proposed amendment to the NPS-HPL

Replace all references to "land-based primary production" with "primary production".

7.2. Build flexibility into NPS-HPL to best protect productive capacity

The NPS-HPL mapping requirements should be amended to protect LUC 1 and 2 as default, while allowing councils the choice to also protect LUC 3 or higher depending on the land's potential economic output from primary production. The recent decision on the Proposed Otago Regional Policy Statement recognised that protecting all LUC 3 may not always be practical, but the soils outside of LUC 1-3 are often best suited for orcharding and should be eligible to be mapped as highly productive land.³¹ Orcharding often takes place on LUC 4 or 5.

This policy proposal aligns with the coalition priorities to "grow the economy to ease the cost of living"³² and allow "farmers to farm" and the National Party's "Getting Back to Farming" policy which calls to "Allow normal rural activities on Highly Productive Land".³³ Given that horticulture is a low emissions food production system, this policy supports emissions reduction goals.

Proposed amendment to the NPS-HPL Section 1.3

1.3 Interpretation

Productive capacity, in relation to land, means the ability of the land to support land-based primary production over the long term, based on an assessment of:

- (a) physical characteristics (such as soil type, properties, and versatility); and
- (b) legal constraints (such as consent notices, local authority covenants, and easements); and

³⁰ National's ["Getting Back to Farming" policy](#)

³¹ [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](#) (para 231, 613.3)

³² [NZFirst Agreement 2.pdf \(nationbuilder.com\)](#)

³³ National's ["Getting Back to Farming" policy](#)

(c) the size and shape of existing and proposed land parcels; **and**

(d) the potential for high economic output from primary production.

Proposed amendment to the NPS-HPL Section 3.4

3.4 Mapping highly productive land

(1) Every regional council must map as highly productive land any land in its region that...

(2) However, despite anything else in this clause, land that, at the commencement date, is identified for future urban development must not be mapped as highly productive land.

(2a) Regional councils may remove LUC 3 land from mapping if it does not have a high productive capacity.

(3) Regional councils may map land that is in a general rural zone or a rural production zone, but is not LUC 1, 2, or 3 land, as highly productive land if the land is, or has the potential to be (based on current uses of similar land in the region), highly productive for land-based primary production in that region, having regard to the **potential economic output from primary production**, soil type, physical characteristics of the land and soil, and climate of the area.

Targeted changes to the Resource Management Act 1991 (RMA) - Bill 1, May 2024

Without limiting the generality of the above, HortNZ seeks the following decisions on the targeted amendments to the RMA, 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.

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

Provision	Reason	Government priorities	Decision sought
2 Interpretation	The TMOTW principles and the hierarchy of obligations should be maintained but clarified to take a more wholistic approach to balance and human health needs.	This aligns with government priority to “rebalance Te Mana o te Wai to better reflect the interests of all water users” ³⁴ and “Support the efficient allocation of freshwater” ³⁵ .	<p>Proposed amendment to the RMA Section 2 Interpretation</p> <p>Fundamental concept – Te Mana o te Wai</p> <p>Concept means</p> <p>(1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community, <u>having regard to the hierarchy of obligations and using an overall judgment approach.</u></p> <p><u>Human health needs means underlying determinants of health, including:</u></p>

³⁴ [coalition agreement between National and ACT](#)

³⁵ [“Blueprint for a Better Environment” policy](#)

			<ul style="list-style-type: none"> • <u>Safe drinking water and adequate sanitation</u> • <u>Safe food</u> • <u>Adequate nutrition and housing</u> • <u>Healthy working and environmental conditions</u>
2 Interpretation	<p>A definition of Commercial Vegetable Production is needed to support a Permitted Activity for Discharges from Commercial Vegetable Production, to replace the quashed SVGA provisions from the NPS-FM 2020.</p> <p>The proposed definition is based on the Commodity Levies Act 1990 and the first consent decision under Environment Canterbury PC7.</p>		<p>2 Interpretation</p> <p><u>Commercial vegetable production means the following vegetables grown for commercial purposes:</u></p> <p><u>A. Artichokes, Asian vegetables, beetroot, boxthorn, brocco flower, broccoli, broccolini, Brussels sprouts, burdock, cabbage, capsicums, carrots, cauliflower, celeriac, celery, chilli peppers, chokos, courgettes, cucumbers, eggplant, Florence fennel, garland chrysanthemum, garlic, gherkins, herbs, Indian vegetables, kohlrabi, kumara, leeks, lettuces, marrows, melons, okra, onions, parsnips, potatoes, puha, pumpkin, purslane, radishes, rakkyo, rhubarb, salad leaves, salsify, scallopini, scorzonera, shallots, silverbeet, spinach, spring onions, sprouted beans and seeds, squash, swedes, sweetcorn, taro, tomatoes, turnips, ulluco,</u></p>

			<p><u>watercress, witloof, yakon, yams, zucchinis; and</u></p> <p><u>B. The hybrids of the vegetables listed in subparagraph a.</u></p> <p><u>For the avoidance of doubt, the following are not commercial vegetable production: the production of apples, asparagus, avocados, babacos, beans, berry crops, casanas, cherimoyas, citrus, feijoas, figs, guavas, kiwifruit, kiwiberries, loquats, passionfruit, pears, peas, persimmons, quinces, sapotes, summer fruit(including apricots, cherries, nectarines, peaches, and plums), and tamarillos ,tree leaf crops (including tea); and any hybrids of these crops.</u></p>
<p>New Section for Permitted Activity for Discharges from Commercial Vegetable Production</p>	<p>The limited environmental effects of Commercial Vegetable Production (CVP) should be managed with a permitted activity standard implemented through certified freshwater farm plans with additional requirements for CVP within</p>	<p>Coalition agreement priorities to amend the RMA to allow farmers to farm and improve Farm Environment Plans, so they are more cost-effective and pragmatic for farmers³⁶ and to the National Party’s Primary Sector Growth Plan³⁷.</p>	<p><u>Rules relating to the discharge of a contaminant to water or land from Commercial Vegetable Production.</u></p> <p><u>1. Despite section 15 and section 70, the discharge of contaminants to land and water from Commercial Vegetable Production are a permitted activity provided that all Commercial</u></p>

³⁶ [National ACT Agreement.pdf \(nationbuilder.com\)](#), [NZFirst Agreement 2.pdf \(nationbuilder.com\)](#)

³⁷ ["Primary Sector Growth Plan"](#)

	<p>catchments below national bottom lines. This approach will avoid unintended consequences for crop rotation and business turnover.</p>		<p><u>Vegetable Production over 5 ha is managed with a Certified Freshwater Farm Plan in accordance with Part 9A.</u></p> <p>2. <u>In catchments where the nitrogen related attributes are below the NPS-FM bottom lines the following additional measures must also be included within the certified freshwater plan.</u></p> <p>a. <u>Demonstrate participation in research to reduce water quality impacts of Commercial Vegetable Production, or</u></p> <p>b. <u>Demonstrate participation in catchment scale projects to improve environmental outcomes.</u></p> <p>3. <u>This section prevails over any CVP rules and policies within Regional Plans and has immediate effect.</u></p>
<p>Part 9A Freshwater farm plans</p>	<p>Changes are needed to better incorporate industry assurance schemes into the Freshwater Farm Plan rules. The assurance process for Freshwater Farm</p>	<p>This aligns with the government’s priorities to “support Freshwater Farm Plans with clear standards to improve the consistency of Freshwater Farm Plans across the</p>	<p>217B Interpretation</p> <p>auditor means a person who— (a) is appointed under section 217K; and <u>or (b) is employed by an approved industry organisation under Section 217KA; and</u></p>

<p>217B Interpretation</p>	<p>Plans should be aligned with international practice, especially the concepts of certification and audit, to reduce complexity and improve credibility.</p> <p>This method recognises that there are multiple ways to achieve the aims of freshwater farm plans, such as a benchmarked standard developed by industry that is tailored to horticulture.</p>	<p>country and potential integration with other farm management systems to avoid duplication”,³⁸ “support Farm Environment Plans administered by regional councils and targeted at a catchment level”³⁹ and “improve Farm Environment Plans so they are more cost-effective and pragmatic for farmers”⁴⁰.</p>	<p>(c) meets the criteria prescribed in regulations made under section 217M(1)(h)</p> <p>certifier means a person who— (a) is appointed under section 217K; and or (b) is employed by an approved industry organisation under Section 217KA; and (c) meets the criteria prescribed in regulations made under section 217M(1)(h)</p> <p><u>freshwater farm plan standard means a set of publicly available specified requirements approved by a Regional Council as equivalent to 217F (1) (a)-(e).</u></p>
<p>Part 9A Freshwater farm plans</p> <p>217KA Regional council may approve industry organisation to provide</p>	<p>Greater flexibility is needed in the way that industry organisations can be approved, such that organisations that operate nationally can apply for national recognition against Ministerial Standards, and Regional Councils can choose to defer to national approval of industry organisations.</p>	<p>See above</p>	<p><u>Approval of</u> Regional council may approve industry organisation to provide certification or audit services.</p> <p>(1) A <u>national body under the Ministry for the Environment, or a regional council</u> may give approval to an industry organisation that applies to the council...</p> <p>(1a) <u>An industry organisation, if operating nationally on behalf of its members, may apply for national recognition under the</u></p>

³⁸ [“Blueprint for a Better Environment” policy](#)

³⁹ [coalition agreement between National and NZ First](#)

⁴⁰ [coalition agreement between National and ACT](#)

certification or audit services			<p><u>national body. A Regional Council may accept the national body approval of that industry organisations to operate in their region.</u></p> <p>(2) The Minister may, by notice in the Gazette, issue standards by which industry organisations...</p>
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Targeted changes to the Resource Management Act 1991 (RMA) - Bill 2, later in 2024

Provision	Reason	Government priorities	Decision sought
6 Matters of national importance	The purpose of the NPS-HPL is to prioritise primary production on highly productive land. Protection of highly productive land should be a matter of national importance under Clause 6 of the RMA because productive soils are a limited resource of strategic importance for New Zealand's food production.	This aligns with the government's priority to "Allow normal rural activities on Highly Productive Land." ⁴¹	6 Matters of national importance In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: (a) the preservation of the natural character of the coastal environment... (b) the protection of outstanding natural features and landscapes... <u>(bb) the protection of highly productive land for use in primary production, both now and for future generations:</u> (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna...
7 Other matters	Fresh fruit and vegetables are nationally significant for the health of the nation, for domestic	Government's target to double export value in the next ten years ⁴² and coalition agreements	7 Other matters In achieving the purpose of this Act, all persons exercising functions and powers under it, in

⁴¹ ["Getting Back to Farming" policy](#)

⁴² [National sets bold target for export growth](#)

	<p>nutrition and food security and for export value as low emissions, high value products. As such, the supply of fresh fruits and vegetables should be enabled as a matter that all RMA practitioners should have particular regard to under Section 7 of the Resource Management Act 1991 (RMA).</p>	<p>to lift New Zealand’s productivity and economic growth to increase opportunities and prosperity for all New Zealanders⁴³ and “grow the economy to ease the cost of living”⁴⁴.</p>	<p>relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to–</p> <p>(a) kaitiakitanga...</p> <p>(ba) the efficiency of the end use of energy:</p> <p><u>(bb) the supply of fresh fruits and vegetables</u></p> <p>(c) the maintenance and enhancement of amenity values...</p>
<p>14 Restrictions relating to water</p>	<p>Provision for crop survival water, meaning just the amount of water necessary to prevent the loss of horticultural crops for human consumption during times of low flow, is a similar need to stock drinking water and should be treated as such in the RMA.</p>	<p>This aligns with government priorities and coalition agreements to “develop efficient and equitable methods for water allocation”⁴⁵ and “cut red tape and regulatory blocks on irrigation”⁴⁶.</p>	<p>14 Restrictions relating to water</p> <p>3. A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if–</p> <p>a. the taking, using, damming, or diverting is expressly allowed by a national environmental standard...</p> <p>b. in the case of fresh water, the water, heat, or energy is required to be taken or used for–</p>

⁴³ [National ACT Agreement.pdf\(nationbuilder.com\)](#), [NZFirst Agreement 2.pdf\(nationbuilder.com\)](#)

⁴⁴ [NZFirst Agreement 2.pdf\(nationbuilder.com\)](#)

⁴⁵ [“Blueprint for a Better Environment” policy](#)

⁴⁶ [coalition agreement between National and NZ First](#)

			<ul style="list-style-type: none"> i. an individual's reasonable domestic needs; or ii. the reasonable needs of a person's animals for drinking water; or iii. <u>the reasonable needs of crops for survival water,</u>– <p>and the taking or use does not, or is not likely to, have an adverse effect on the environment...</p>
Section 142 Minister may call in matter that is or is part of proposal of national significance	Proposals of national significance should also include projects that enable the production and transportation of fresh fruits and vegetables. This will allow roads, flood protection, water storage schemes and ports for key horticultural areas to be elevated due to their strategic importance for domestic food supply and export value.	This proposal aligns with the Government's stated priorities to "make it easier to consent new infrastructure", "cut red tape and regulatory blocks on irrigation, water storage, managed aquifer recharge and flood protection schemes", "strengthen international supply networks" and progress climate adaptation "to protect lives and livelihoods". ⁴⁷	<p>Section 142 Minister may call in matter that is or is part of proposal of national significance</p> <p>(3) In deciding whether a matter is, or is part of, a proposal of national significance, the Minister may have regard to–</p> <ul style="list-style-type: none"> (a) any relevant factor, including whether the matter– (i) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or...

⁴⁷ [coalition agreement between National and NZ First, Blueprint for a Better Environment.pdf\(nationbuilder.com\)](#)

			<p>(v) results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or</p> <p><u>(va) enables the production and transportation of fresh fruits and vegetables; or</u></p> <p><u>(vb) provides for harvesting and storage of freshwater; or</u></p> <p>(vi) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or...</p>
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Targeted changes to the National Policy Statement for Highly Productive Land

Provision	Reason	Government priorities	Decision sought
Entire NPS-HPL	<p>HortNZ seeks allowances for the construction of packhouses, greenhouses, seasonal worker accommodation, and covered crop protection on highly productive land, in recognition that buildings are an integral part of horticulture.</p> <p>An amendment to the RMA to allow for all of these key horticultural buildings on highly productive land will get back to the original purpose of the national direction - to enable productive use of productive land.</p>	National Party's "Getting Back to Farming" policy, which calls to, "Allow normal rural activities on Highly Productive Land -- Change the National Policy Statement for Highly Productive Land to allow a broader range of productive rural activities such as...vegetable processing."	Replace all references to "land-based primary production" with "primary production".
NPS-HPL Clause 1.3 Interpretation	The definition of productive capacity should be expanded to include economic output for primary production.	National Party's "Getting Back to Farming" policy, which calls to, "Allow normal rural activities on Highly Productive Land -- Change the National Policy Statement for Highly Productive Land to allow a broader range of productive rural activities such as...vegetable processing."	<p>1.3 Interpretation</p> <p>Productive capacity, in relation to land, means the ability of the land to support land-based primary production over the long term, based on an assessment of:</p> <p>(a) physical characteristics (such as soil type, properties, and versatility); and</p>

			<p>(b) legal constraints (such as consent notices, local authority covenants, and easements); and</p> <p>(c) the size and shape of existing and proposed land parcels; and</p> <p><u>(d) the potential for high economic output from primary production.</u></p>
<p>NPS-HPL Clause 3.4 (3)</p>	<p>The NPS-HPL mapping requirements should be amended to protect LUC I and II as default, while allowing councils the choice to also protect LUC III or higher depending on the land’s potential economic output from primary production. The recent decision on the Proposed Otago Regional Policy Statement recognised that protecting all LUC III may not always be practical, but the soils outside of LUC I-III are often best suited for orcharding and should be eligible to be mapped as highly productive land.⁴⁸ Orchardring often takes place on LUC IV or V.</p>	<p>National Party’s “Getting Back to Farming” policy, which calls to, “Allow normal rural activities on Highly Productive Land -- Change the National Policy Statement for Highly Productive Land to allow a broader range of productive rural activities such as...vegetable processing.”</p>	<p>3.4 Mapping highly productive land</p> <p>(1) Every regional council must map as highly productive land any land in its region that...</p> <p>(2) However, despite anything else in this clause, land that, at the commencement date, is identified for future urban development must not be mapped as highly productive land.</p> <p><u>(2a) Regional councils may remove LUC 3 land from mapping if it does not have a high productive capacity.</u></p> <p>(3) Regional councils may map land that is in a general rural zone or a rural production zone, but is not LUC 1, 2, or 3 land, as highly productive land if the land is, or has the potential to be (based on current uses of similar land in the region), highly productive for land-based primary production in that region, having regard to the <u>potential economic output from</u></p>

⁴⁸ [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](#) (para 231, 613.3)

primary production, soil type, physical characteristics of the land and soil, and climate of the area.

Appendix

Te Mana o te Wai in the Proposed Otago Regional Policy Statement decision (March 2024)⁴⁹

The decision text below helps clarify how balance should be considered under the fundamental concept of Te Mana o te Wai.

7. In our view the final sentence in the concept description is intended to explain how the protective concept described in the first sentence is sought to be achieved. That is to occur by 'restoring and preserving' the balance 'between the water, the wider environment, and the

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community.' The use of a word like 'balance' will usually involve a state of equilibrium between two differing forces, e.g. the classic example being a seesaw.

8. However, the word 'balance' can also apply to a spectrum of factors in other types of situations. Good examples are found commonly in newspaper articles, political policies, or even in judgment writing. In those contexts what is being referred to is not necessarily a state of equilibrium between two opposing forces, but rather a consideration of all factors often on a sliding scale in a manner which informs about, or considers issues across a spectrum, but in doing so does not lean unduly too far in any one direction.
14. However, in our view that approach places too much weight on the first sentence of the Te Mana o te Wai concept and overlooks aspects of the spectrum balance we perceive being identified in the last sentence. That sentence acknowledges through restoration and preservation a process which balances the health needs of freshwater, the wider environment and the community benefit in a manner which is then prioritised in clause 1.5 as to Te Mana o te Wai, and again in Objective 2.1 of the NPSFM.

In our view the balance that must applied to Te Mana o te Wai is one that considers issues across a spectrum, using an overall judgement approach consistent with that applied to Part 2 of the Act.

⁴⁹ [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](#) (para 7-8)