

TANK/Plan Change 9 Decision

Hawke's Bay Region | November 2022

Summary of decision

What is the TANK Plan Change/Plan Change 9?

The TANK Plan Change/Proposed Plan Change 9 (PC9) is a change to the provisions of the Regional Resource Management Plan (RRMP) that relate to freshwater management within the Tutaekuri, Ahuriri, Ngaruroro and Karamu (TANK) Catchments.

- **The proposed plan was notified in May 2020**, and the rules have had legal effect since that time (i.e. they apply, alongside the current RRMP rules).
- **HortNZ made a submission in August 2020**. A copy of the submission is available on the HortNZ website. The Council received almost 250 submissions, raising a wide range of issues.
- **Further submissions were called for in November 2020**, and a copy of HortNZ's further submission is also available on the HortNZ website.
- **Hearings were held in 2021 (in May and June, with an additional day in September)**. A number of experts presented evidence on behalf of HortNZ at the hearing.
- **The hearing panel notified their decision on 9 September 2022**.
- **Appeals closed on 26 October 2022**. HortNZ has lodged an appeal which is available on the HortNZ website and summarised below.



Key changes /provisions

A number of aspects of the decision are positive for growers, including the following:

- Changes have been made to the requirements for farm plans which are required for all properties with over 5ha of horticulture. GAP plans that many growers already have should be able to be used with only minor amendments/additions. The requirements have also been aligned with new national requirements for farm plans, so there is greater consistency which should simplify things for growers.
- The timeframe over which actual water use records (where available) will be reviewed has been changed from May 2010-2020, rather than August 2007-2017, which

means that the two very dry water years of 2012/13 and 2019/20 will be taken into account.

- The land use change framework has been simplified, and now relates to changes in nitrogen leaching risk, and are only triggered if over 10ha (or 20ha if changing between low nitrogen leaching risk activities) of land use is changed.
- Crop rotations for vegetable and arable crops have been provided for (rotations can also include pasture).
- Growers can continue to take up to 20 m³/day water to irrigate permanent horticultural crops for the purposes of rootstock survival at times of low flows. However, we believe the provisions could be clearer so have sought this clarity through our appeal.
- Provisions have been retained in the plan that enable water to be taken at high flows and stored for later use.

Some aspects of the decision where HortNZ had sought changes but were not successful include the following:

- At the time of replacement of water permits, historic water use records (where available) will be considered by the council (i.e. actual water use). This means that if large portions of expiring allocations haven't been used, the same volume is unlikely to be granted through the replacement process, unless there are really good reasons why water hasn't been used over the period of the expiring consent.
- Restrictions on activities within source protection zones established around the municipal water supplies are extensive, and those source protection zones cover considerable areas of horticultural land use. The need to recognise the location of highly productive soils (the areas where horticultural is largely based) is something we have sought in our appeal.
- Assessment of water quality effects continues to be focused on nitrogen and phosphorus, rather the full suite of contaminants (e.g. *E coli*).

Summary of HortNZ appeal

Generally HortNZ is relatively pleased with the decision, however has lodged an appeal seeking changes to a small number of provisions - details are set out in the table below. Fifteen other appeals have been lodged by other parties. Some of those appeals are quite confined (like HortNZ's), but others seek a wide and extensive list of changes to Plan Change 9. Mediation is expected to be the next step, however timing of this is not yet known.

Notified Provisions	Summary of HortNZ's submission - change sought and reasons
Policy 8	HortNZ has sought the addition of an additional subclause to ensure that the location of registered drinking water supplies, and their source protection zones or extents takes into account the requirement of the NPS for Highly Productive Land

	to prioritise and support the ongoing use of highly productive land for land-based primary production purposes.
Policy 35	Adding wording to enable water to be re-allocated to mitigate stream depletion effects through the operation of stream flow maintenance and habitat enhancement schemes, which we believe the wording of Policy 34 indicates was the intent of the panel.
Policy 48 and Rule 11	We seek deletion of the term ' <i>or unforeseen non-commercial needs</i> '. This term is not defined, and it is therefore unclear what it may encompass.
Rules 3, 4 and 5	Amend as necessary to ensure consistency across rules, and with Schedule 28. It is critically important that the land use change framework is consistent and clear.
Rule 7 & 9	Amendments are sought to make it explicitly clear that the abstraction of up to 20 m ³ per property per day is permitted for the purposes of rootstock protection. Ensuring the survival of permanent horticultural crops is critically important, and the current drafting is considered to lack clarity.
Rule 8	Amend Matter for Discretion 1) by adding subclause e): <i>For stream flow maintenance and habitat enhancement schemes, the quantity of water required for augmentation during low flow periods.</i> This change would ensure that the volume of water required for augmentation of stream flow maintenance and habitat enhancement schemes is provided over and above water allocated to the scheme in accordance with the definition of actual and reasonable Use
Rule 10	Add a further subclause to Condition b. The current TANK rule framework does not provide a clear consenting pathway that allows for the re-allocation of water to stream flow maintenance and habitat enhancement schemes (as provided for by Policy 24).
Schedule 28 - Land Use Change Schedule	Various amendments sought to ensure clarity and consistency across the land use change framework
Definition - Land Use Change	Small wording change sought to ensure that lease hold land can be used as part of a cropping rotation.
Definition - TANK Industry Programme or a TANK Catchment Collective	Amend definition to create separate definitions for TANK Industry Programme, and TANK Catchment Collective. This will improve consistency with Schedule 29 which now separates out requirements for Catchment Collectives and Industry Programmes.

WHERE TO GO FOR MORE INFORMATION

- [The TANK Plan | Hawke's Bay Regional Council \(hbrc.govt.nz\)](https://www.hbrc.govt.nz)
- Keep an eye on HortNZ's website [Hawke's Bay | Horticulture New Zealand – Ahumāra Kai Aotearoa \(hortnz.co.nz\)](https://www.hortnz.co.nz)
- Or you can contact Charlotte Drury who is leading HortNZ's involvement in TANK Charlotte.Drury@hortnz.co.nz; 027 3225595