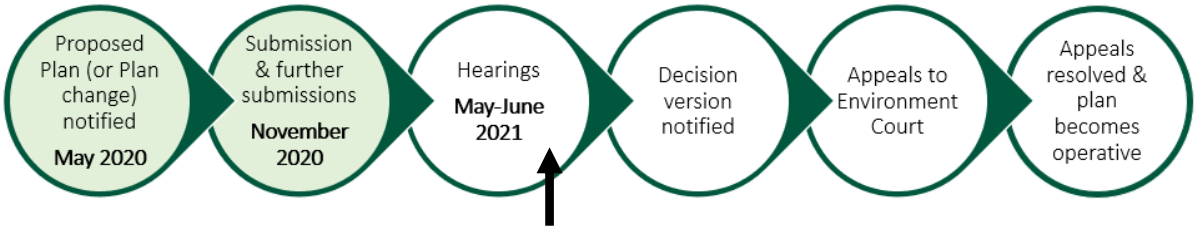
Update on TANK/Plan Change 9

Hawke's Bay Region | February 2021

What is the TANK Plan Change/Proposed 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.



What are the next steps?

- **The hearing has been set down for May-June 2021**, and is likely to run for several weeks, with different topics (ie. water quality, water quantity) being dealt with in separate blocks.
    - HBRC has appointed a panel of 5 independent hearing commissioners.
    - The hearing is an opportunity for submitters to present the changes they seek to the panel.
- HortNZ has started work to identify what expert evidence we will need at the hearing to support our case, and will engage relevant experts to start on that work.
- HortNZ will also continue to engage with other primary sector submitters, and will look to share technical experts where we can to keep costs down.
- Following the hearing, the Hearings Panel will consider submissions and make decisions on what the provisions should be. Any submitters (at either the initial or further submission stage) then have the opportunity to appeal the decision to the Environment Court if they are not satisfied with a decision on any of the matters that they raised in their submission.

What does it mean for growers?

Until the TANK Plan Change becomes operative, both the current operative regional plan and the PC9 rules apply:

- Hawke's Bay Regional Council enforce both sets of rules (until the PC9 becomes operative) with the strictest requirement prevailing.
- If you have a resource consent, the new plan will only become relevant for this activity if/when you need to renew your consent.

- There is a grace period if you are undertaking an activity that was permitted under the existing regional plan(s) but requires resource consent under the PC9. As long as a resource consent is applied for within 6 months of the rules becoming operative (refer timeline above), the activity is the 'same or similar in character, intensity, and scale' and has not been discontinued for more than 6 months, this activity can continue.

The PC9 can be accessed on Hawke's Bay Regional Council's website: https://www.hbrc.govt.nz/hawkes-bay/projects/the-tank-plan/about-tank/

What does the plan cover?

The plan has rules, objectives and policies for managing land and freshwater. A summary of the provisions most relevant to horticulture is provided below.

Land use change restrictions

One of the main things that the plan change introduces is some restrictions on land use change. This part of the plan t is not particularly clear, and this is something that HortNZ has addressed in our submission.

The notified rules do have legal effect, so if you are changing land use on your property, and your property is over 10ha in size you need to be aware of them (if you are under 10ha then the new rules don't apply to you).

To figure out whether you might need consent for land use change, you compare it to the land uses you had in place on 2 May 2020.

The notified rules thresholds are:

- Changing production land use over more than 10% of the property, or
- Changing land use over more than 10ha of property and the annual nitrogen loss will increase more than limits set in Schedule 29 of the Plan
  (access the plan here: https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/Proposed-TANK-Plan-Change-9.pdf)

The following exemption has been included in the plan to try and allow for crop rotations. HortNZ have suggested some amendments to it in our submission, but in the mean time, the following applies:

> '*Where the land use activity involves arable or vegetable cropping including grazing on a rotational basis, including on lease land at variable locations, production land use change does not include a change in the location of an arable and/or vegetable cropping rotation, where the area of the rotation is equivalent, (plus 10 ha) of the maximum rotation area in the 5 years prior to the plan notification.*'

If you are changing land use on your property, and you think you might exceed either of the thresholds above, get in touch with the Consents Advisor at the Hawke's Bay Regional Council in the first instance on (06) 833 8090, or your local planning consultant.

Farm Plans

Farm plans are ultimately required for every property greater than 10ha within the TANK Catchments. Timeframes for when these are required are staggered depending on whether the catchment your property is located in is classified as high, medium or low priority from a water quality perspective:

- High priority catchments - farm plans are required within **3 years** of the plan becoming operative.
- Medium priority catchments - farm plans are required within **6 years** of the plan becoming operative.
- Low priority catchments - farm plans are required within **9 years** of the plan becoming operative.

This means that even in high priority catchments you have plenty of time to get this done (refer to flow diagram on front page to see when plan becomes operative i.e once a decision has been made and any appeals resolved).

If you are GAP certified (NZGAP, GlobalGAP or other) then you may be able to add the Environmental Management System (EMS) Module to your farm plan and meet the regional council's requirements. HortNZ have asked for this in our submission, and are working closely with the Council to try and make sure this is enabled.

Nutrient budgets need to be done as part of farm plans for properties in catchments where nitrogen concentrations exceed those stated in the plan (these catchments are mapped and include most of the Karamu Catchment and its tributaries).

Water Quantity

Groundwater

It has been difficult to get resource consent from the regional council to take any new groundwater within the TANK Catchments for several years now, and this remains the case (or gets even harder) under the notifed version of the plan change, as it seeks to reduce the total amount of groundwater allocated from the Heretaunga Plains aquifer over time. This means that many consent holders will not be granted as much water as they have previously had when their water permit is replaced.

The new test introduced in the proposed plan (which applies to both groundwater and surface water takes) is "actual and reasonable use" which essentially means that if you haven't used the total volume of water you have been consented to take, you will need to provide a good explanation about why you haven't – things like crop rotation and development phases could support your argument. The time period over which water use will be assessed is from from 2007-2017.

All existing groundwater takes on the Heretaunga Plains are now understood to have some impact on nearby rivers and streams, and the council has developed a stream depletion calculator that will be used to calculate the effect of every groundwater take on nearby streams. Everyone that has a groundwater take will be told which stream their take effects and then will have to either:

- Join a scheme that will discharge groundwater into the effected stream (similar to the Twyford Scheme), or
- Stop taking groundwater when that stream drops below its trigger flow.

This proposal has attracted a lot of attention in submissions, so may well change. In any event, requirement to contribute to stream flow augmentation, or cease taking would be detailed in your consent conditions at the time any replacement water permits are granted by the regional council.

Surface water

Surface water bodies are ALL considered to be over or fully allocated, therefore no new surface water is available (except at high flows - explained further below) and allocation will be reduced by the council over time as water permits come up for replacement. High flow water is still available, but allocation limits are proposed – a maximum of 8,000L/s from the Ngaruroro, and 2,500L/s from the Tutaekuri (at periods of high flow) can be consented, and it is understood that most of this water has already been applied for.

The minimum flow for the Tuataekuri River is proposed to increase from 2,000L/s to 2,500L/s (e.g. may go on ban more often), but minimum flow for Ngaruroro River will remain the same

All water takes

The following changes are proposed that apply to both ground and surface water takes:

- Water will be allocated on the basis that irrigation infrastructure is 80% efficient
- Irricalc to be used to calculate all crop water needs going forward
- Transfers become more difficult
- Allocations will be annual
- Permitted water takes (where they are possible) are reduced from 20m^3 per day to 5m^3 per day

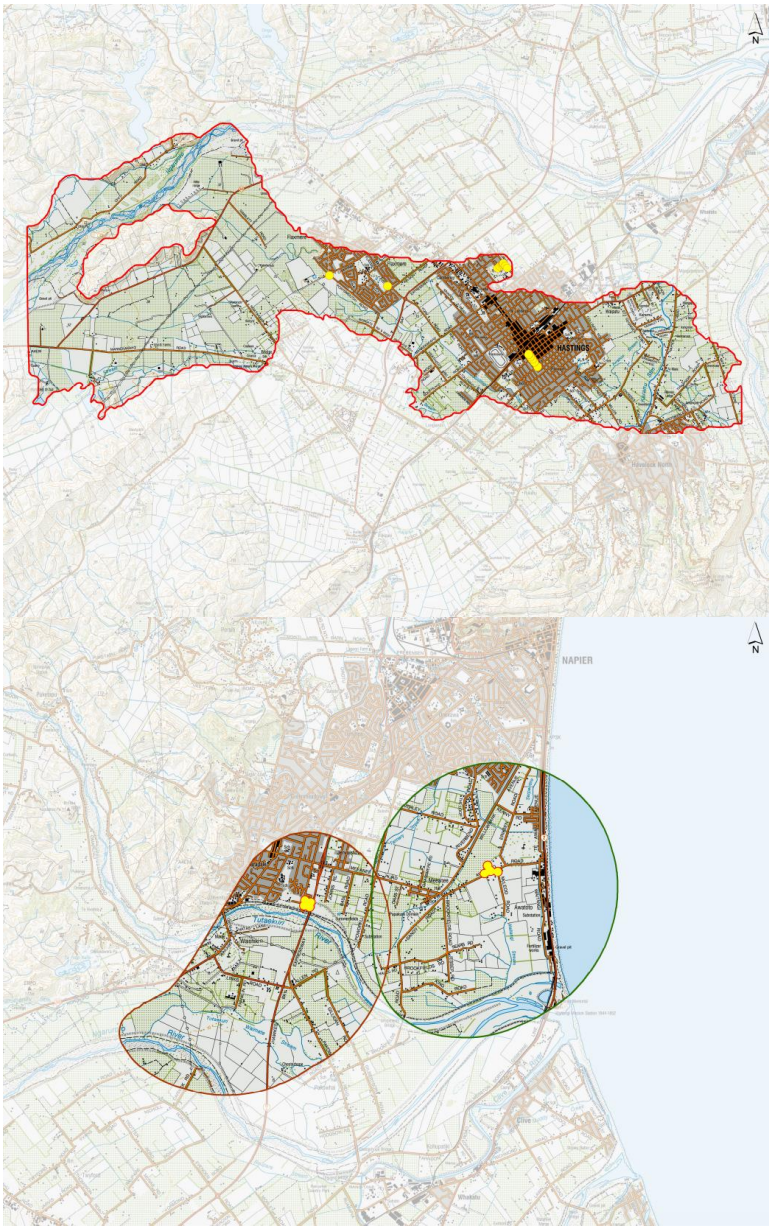
Water Quality

The new plan provisions discussed above in relation to land use change and farm plans are intended to achieve improvements in water quality.

There are some other provisions that also seek to help improve water quality in the catchments which are:

- **Cultivation setbacks** to try and reduce sediment loss to surface water. 5m setbacks on land up to 7 degrees, 10m for 7-20 degree slopes, and 15m for over 20 degree slopes
- **Riparian planting is encouraged,** especially within the Karamu Stream Catchment. A goal to plant 200km of streambank on the Heretaunga Plains with riparian plants over the next 10 years is included in the plan.
- **There are also new restrictions relating to activites (discharges as well as water takes) located within source protection zones identified around registed drinking water supply sources** (water supplies that supply more than 25 people for more than 60 days a year).

  These are quite big areas that cover lots of horticultural land so please be aware of them. Larger versions of the maps are available here: https://www.hbrc.govt.nz/hawkes-bay/projects/the-tank-plan/tank-maps/



What are the main points that HortNZ has submitted on?

The main points that were addressed in HortNZ's submissions were:

- The importance of water security for the horticultural sector – including enabling water to be taken at high flows and stored for later use
- The replacement of water permits based on reasonable use (not actual use, as many growers have incomplete records of past water use)
- Provision of water for survival of permanent horticultural crops and also irrigation of domestic food
- Enabling crop rotation
- Assessment of water quality effects across all contaminants and related to achieving priority freshwater outcomes
- Enabling industry programmes such as the GAP schemes, and also collective approaches to managing both water quality and water quantity
- The land use change planning provisions – these are currently challenging to unravel and need to be simplified and clarified