

SUBMISSION ON PROPOSED NATURAL RESOURCES PLAN FOR THE WELLINGTON REGION

TO: Greater Wellington

SUBMISSION ON: Proposed Natural Resources Plan for the Wellington Region

NAME: Horticulture New Zealand

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1. Horticulture New Zealand's submission, and the decisions it seeks, are detailed as follows:

Schedule 1: Introduction
Schedule 2: Interpretation and Definitions
Schedule 3: Objectives
Schedule 4: Policies
Schedule 5: Rules
Schedule 6: Other methods
Schedule 7: Schedules

2. Submission of Horticulture New Zealand:

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

2.2 On behalf of its 5,500 active grower members Horticulture New Zealand takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. The principles that Horticulture New Zealand considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act,
- Non-regulatory methods should be employed by councils;
- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;
- Ensuring that RMA plans work in the growers interests both in an environmental and "right to farm" sense;

2.3 Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications.

3. **Horticulture New Zealand wishes to be heard in support of this submission if hearings are held.**
4. **Horticulture NZ is not a trade competitor and will not gain in trade competition through this submission.**

Horticulture NZ thanks the Council for granting an extension for the submission on the Proposed Natural Resources Plan.

Thank you for the opportunity to submit on the Proposed Natural Resources Plan for the Wellington Region.



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SCHEDULE ONE – Introduction

1.1 1.6 Values of water in the Plan

Section 1.6 sets out the values of water in the Plan that establish a framework for freshwater management to implement the National Policy Statement for Freshwater Management (NPSFM).

Horticulture NZ supports the inclusion of the values but consider that there is no statutory status accorded the values by incorporating them in an Introduction.

The section states that they are 'given practical application through the different objectives, policies and methods of the Plan'. However it is important in implementing the NPSFM that there is an appropriate status given to the values.

It is important that the text identifies that the contact recreation value will be expressed as either a primary or secondary contact recreation value depending on the location.

As the values have been developed to provide a framework for implementing the NPSFM they should refer to freshwater.

Decision sought:

Retain the text regarding the values of water in Section 1 but amend to add at the end of the 4th para: The contact recreation value will be expressed in the plan as either a primary or secondary contact recreation value depending on the location.

Move the table of values of water to an Objective in Section 3, preferably as an overarching objective in 3.1 as follows:

The values of freshwater are recognised and provided for.

Include Table 1.1 with the listed values.

1.2 Consequential amendments

Decision sought:

Horticulture NZ seeks that consequential amendments are made as a result of amending the Plan as sought in this submission.

SCHEDULE TWO: Interpretation and Definitions

2.1 Cultivation

There needs to be recognition of strip tilling in the exclusions of cultivation as the soil disturbance is minimal. Harvesting of crops from the cultivated soil should be included as part of the cultivation definition as it is a consequence that the crops will be harvested, which can disturb the soil such as harvesting root crops.

Decision Sought: Amend definition of cultivation

A process that involves turning over the soil for growing and harvesting of pasture or crops, but does not include:

- (a) direct drilling and strip tilling
- (b) no-till practices
- (c) forestry

2.2 Efficient allocation

The definition of efficient allocation should also include efficient use as the allocation and use are used together throughout the Plan. It is important that use is efficient, not just allocation and that economic, technical and dynamic efficiency apply to use of water.

Decision sought:

Amend the definition of efficient allocation to 'efficient allocation and use'.

2.3 Fertiliser

Horticulture NZ sought that the definition of fertiliser be the definition that is used in the ACVM regulations to ensure that it adequately includes all substances that are used to improve soil and plant growth, not just in provision of nutrients but also to facilitate the uptake of nutrients. The proposed definition has taken aspects of the ACVM definition and incorporated into the draft definition. While the effect is that it includes substances of concern to Horticulture NZ it is considered that the ADVM definition has status in regulations so is appropriate to use in the Plan.

The [ACVM standard](#) covers the requirements for the fertiliser group of agricultural compounds that are regulated under the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997.

Fertiliser

The ACVM Regulations define fertiliser as:

- (a) *means a substance or biological compound or mix of substances or biological compounds that is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of—*
 - (i) *nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or*

- (ii) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or*
- (iii) fertiliser additives; and*

(b) includes non-nutrient attributes of the materials used in fertiliser; but

(c) does not include substances that are plant growth regulators that modify the physiological functions of plants.

The ACVM Regulations define fertiliser additive as:

(a) a non-nutrient substance added to a fertiliser, or applied to land by itself, that—

(i) improves the supply and uptake of nutrients; or

(ii) increases the biological activity of soil; or

(iii) modifies the physical characteristics of a fertiliser to make it more fit for its purpose; but

(b) does not include substances that are plant growth regulators that modify the physiological functions of plants

Agricultural lime, is applied to condition and change the pH of the soil and under these definitions is considered to be a fertiliser additive and so is a fertiliser under the ACVM definition.

Decision sought:

Amend definition of fertiliser as follows:

Fertiliser means

a) a substance or biological compound or mix of substances or biological compounds that is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of—

(i) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or

(ii) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or

(iii) fertiliser additives; and

(b) includes non-nutrient attributes of the materials used in fertiliser; but

(c) does not include substances that are plant growth regulators that modify the physiological functions of plants.

2.4 Good management practices

Horticulture NZ supports the use of good management practices in the Plan and recognition that they evolve over time. However it is unclear how practices will be assessed as being 'effective at achieving the desired performance' or how they will be incorporated into guidelines on the GW website. There needs to be clarity that there are good management practices which are available and appropriate to be used that are not on the GW website.

Decision sought:

Amend the definition of good management practice:

Practices, procedure or tools that are designed to be effective at achieving the desired performance while provide for desired environmental outcomes. Good management practice evolves through time and results in continuous improvement as new information, technology and awareness of issues are developed and disseminated. Industry has a key role in developing good management practices which can be used to implement provisions in the Plan. GW will identify good management practice guidelines and place them on the Council's website but good management practices will not be limited to those on the website.

2.5 High risk soils

The definition refers to soils on 'rolling/ sloping country'. There needs to be clarity as to the slope that is intended to be included as high risk soils.

Decision sought:

Include a slope category of over 20 degrees as being high risk soils.

2.6 National electricity grid

The definition should refer to the National Grid, which is the commonly used term.

Decision sought:

Amend 'National electricity grid' to 'National Grid'

2.7 Natural wetland

The definition of natural wetland is dependent on a list of exclusions. However that presents issues if not all relevant areas are included in the exclusions.

BOP regional plan has a good definition of wetland with an example figure. While it has a list of exclusions it also has a description of what are not considered to be wetlands.

Wetlands – Includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

For the avoidance of doubt, the term 'wetland' applies to water bodies, and intermittently wet areas. The term does not apply to dry land that does not support a natural ecosystem of plants and animals that are adapted to wet conditions, and that occurs within an area commonly referred to in its entirety as a wetland.

For the purposes of this regional plan, 'wetland' excludes:

- (a) Wetted pasture and pasture with patches of rushes.*
- (b) Oxidation ponds.*
- (c) Artificial water bodies used for wastewater or stormwater treatment. This includes wetlands that have been developed primarily for effluent or stormwater treatment or disposal, but are managed to appear 'natural'.*
- (d) Artificial Farm dams and detention dams.*
- (e) Land drainage canals and drains.*

(f) Artificial Reservoirs for firefighting, domestic or municipal water supply.

(g) Temporary ponded rainfall over areas that would not otherwise be considered a wetland.

(h) Artificial water bodies that are not in the bed of a stream, river or lake; and are not degraded natural wetlands that have been modified. This includes artificial water bodies that are managed to appear 'natural'

The edge of a wetland (i.e. where a wetland becomes land) should be determined by a person with appropriate expertise.

(See Figure 12 and photos to assist in interpretation)

<http://www.boprc.govt.nz/media/31241/Plan-100301-Operative-RWLP-Definitions.pdf>

Decision sought:

Amend definition of wetland to that in the BOP Land and Water Plan.

SCHEDULE THREE: Objectives

3.1 Ki uta ki tai: mountains to sea

3.1.1 New Objective

Horticulture NZ seeks that the values of water in Table 1.1 are included as an objective in 3.1. As the values have been developed to provide a framework for implementing the NPSFM they should be specific to freshwater.

It is important that all the values are recognised and provided for in the Plan so an objective that seeks that outcome is necessary to provide a framework to ensure that they are implemented through the plan.

Decision sought:

Add new objective in 3.1:

The values of freshwater are recognised and provided for.

Include Table 1.1 with the listed values.

Amend Table 1.1 'Use values – direct' by adding after 'Human sustenance, health and wellbeing' – 'including production of food'.

3.1.2 New Objective

In addition to an objective that recognises and provides for the values of freshwater an objective is sought that sets out how the values will be incorporated through the Plan, ensuring that there is consideration of the balance between the range of values.

Decision sought:

Add new Objective in 3.1

Natural and physical resources, are managed to provide an appropriate balance across values and uses in a catchment.

3.1.3 Objective 05

Objective 05 sets out a number of matters that freshwater and coastal marine areas will be managed for, 'as a minimum'. However the way the objective is written only some of the matters that will need to be considered in managing the resources are listed, therefore it implies a priority. It is essential that there is a balance across the range of values in managing natural and physical resources. While the health needs to people is listed it does not include the need to produce food for their sustenance. This is an essential part of human wellbeing and should be explicitly provided for.

Decision sought:

Amend Objective 05 by adding:

d) production of food for human sustenance

3.2 Beneficial use and development- 3.2

3.2.1 New Objective - Biosecurity

Horticulture NZ seeks that provisions are included in the Proposed NR Plan to provide a framework for an appropriate response in the event of a biosecurity incursion of an unwanted organism including provisions to enable disposal of material by burying, burning or application of agrichemicals to manage incursions of biosecurity threats. In the event of a biosecurity incursion there is the need to be able to respond rapidly to manage spread. Burial burning or spraying of material are two methods that may be used. There also needs to be the ability to remove infected material from riparian margins.

The recent PSA incursion in kiwifruit has identified a number of issues in terms of responses to incursions. There are a range of threshold levels for biosecurity incursions and it is only when a biosecurity emergency is declared by the Minister that the emergency provisions in the Biosecurity Act override the RMA provisions. Such an emergency was not declared in the PSA incursion so the regional and district plan rules needed to be met in terms of disposal of infected material and in undertaking a response. In such a situation it is not practical to have to obtain resource consent. Therefore provisions are sought in the Proposed NR Plan to provide a framework for such responses including enabling removal, burial, burning or spraying of infected material

Decision sought:

Add a new objective in 3.2 Beneficial use and development

Take an integrated management approach to biosecurity risks to ensure that rural production is not adversely affected by incursions of pests and unwanted organisms.

3.2.2 New objective

A new objective is sought to specifically provide for rural production activities as a beneficial use and development. Recognition is given to some activities under the objective suite, but rural production activities, which are essential to the social, economic and cultural wellbeing of the region are not recognised and provided for.

Decision sought:

Add a new objective in 3.2 Beneficial use and development:

The social, economic and cultural wellbeing benefits of rural production activities are recognised and provided for.

3.3 Natural character, form and function- 3.4

3.3.1 Objective 019

The objective is currently worded:

'The interference from use and development on natural processes is minimised.'

'Natural processes' is defined in the Plan and is very wide ranging and the use of 'interference' implies that all interactions with natural processes is negative.

The objective should be either deleted or reworded to be more neutral.

Decision sought:

Either delete Objective 019 or amend as follows:

~~'The interference~~ Adverse effects on natural processes arising from use and development are avoided remedied or mitigated. ~~minimised.'~~

3.4 Water quality - 3.5

3.4.1 Objective 023

The focus should be on the 'overall' water quality as required by the NPSFM.

Decision sought:

Amend Objective 023 as follows:

The overall quality of water

3.4.2 Objective 024

The objective sets out how contact recreation will be provided for.

Generally Horticulture NZ supports the approach of identifying specific freshwater bodies where the objective is primary contact recreation and secondary contact recreation in all other rivers and lakes.

The provisions are linked to Schedule H. While this is included in the definition for 'significant contact recreation fresh water bodies' it would be more appropriate that it is included in the objective. In addition Schedule H identifies the whole river. It is considered that the places where primary contact recreation is undertaken should be the parts identified.

Decision sought:

Amend Objective 024 by reference to Schedule H

b) i) significant contact recreation fresh water bodies, as identified in Schedule H1...

Amend Schedule H1 to identify the parts of the rivers where primary contact recreation is undertaken.

3.5 Biodiversity, aquatic ecosystem health and mahinga kai - 3.6

3.5.1 Objective 025

The objective sets out tables with specific numeric and narrative objectives to be met and also a note about the whitua sections of the plan taking precedence.

Horticulture NZ is concerned that the inclusion of the tables in Objective 025 will undermine the whitua process to establish appropriate objectives for respective areas and the response that is determined appropriate in each area.

While it is recognised that there needs to be some objectives while the whitua plans are being developed it is considered that a set of simpler numerics and narratives should be included as the interim measures.

Decision sought:

Amend Objective 025 Tables 3.4-3.8 to include simpler numerics and narratives as the interim measures pending the Whitua plan processes for specific areas.

3.6 Air - 3.8

3.6.1 Objective 039

The objective is for 'ambient air' quality but the term is not defined in the Plan. It should be clear the air quality that is being referred to and that it is distinct from localised air quality.

The National Ambient Air Quality Guidelines (2002) has the following definition for ambient air:

The air outside buildings and structures. This does not refer to indoor air, air in the workplace, or contaminated air discharged from a source.

Decision sought:

Include a definition for 'ambient air' as follows:

Ambient air is the air outside buildings and structures. This does not refer to indoor air, air in the workplace, or contaminated air discharged from a source.

3.6.2 Objective 041

Objective 041 seeks that the adverse effects of odour, smoke and dust on amenity values and peoples well-being are reduced.

The objective makes an assumption that the adverse effects are such that they need to be reduced. It would be preferable that the objective set in place a forward looking framework.

Decision sought:

Amend Objective 041

Discharges of odour, smoke and dust on are managed to avoid, remedy or mitigate adverse effects on amenity values and peoples well-being.

3.6.3 New objective

Discharges to air need to be assessed in the context of the receiving environment and amenity expectations, which varies across the region. For instance the receiving environment of industrial, rural and urban areas will all be different. The Plan needs to ensure that such differences are taken into account when establishing the framework and managing discharges to air in the Region.

Decision sought:

Add a new objective in 3.8 Air
Manage air quality to reflect the different receiving environments across the region, taking into account the location and characteristics of the background receiving environment, including the underlying landuse patterns or zoning.

3.7 Soil - 3.9

3.7.1 Objective 042

Objective 042 seeks that soils are healthy and productive and accelerated soil erosion is reduced. The RMA seeks that life supporting capacity of soils is safeguarded and this while this may mean that soils are healthy and productive it establishes a presumption that may not always reflect the situation.

The issue of accelerated erosion should be a separate objective as it will lead to a different policy suite than life supporting capacity of soil.

An objective of enhancing life supporting capacity of soil is inconsistent with s5 of the RMA.

Decision sought:

Amend Objective 042

The life supporting capacity of soils is maintained.

Add new objective:

Accelerated soil erosion is reduced.

3.8 Land use - 3.10

3.8.1 Objective 044

The objective seeks that adverse effects on soil and water from land use activities are minimised. The RMA provides for avoid, remedy or mitigate and also application of best practicable options. These should be reflected in the objective.

Decision sought:

Land use activities will take all reasonable steps to avoid, remedy or mitigate adverse effects on soil and water.

3.9 Discharges -3.11

3.9.1 Objective 046

The objective seeks to reduce the runoff or leaching of contaminants to water. The focus should be on the 'potential' for such runoff.

Decision sought:

Amend Objective 046

Discharges to land are managed to reduce the potential for runoff or leaching of contaminants to water.

3.9.2 Objective 047

The objective relates to sediment laden run off and that it should be reduced which implies that all water is subject to sediment laden run off. The objective also makes an assumption that the adverse effects are such that they need to be reduced. It would be preferable that the objective set in place a forward looking framework.

Decision sought:

Amend Objective 047

Minimise potential for sediment laden run off to water where current levels are elevated.

3.10 Water Allocation - 3.12

3.10.1 Objective 052

The objective sets out how efficiency of allocation and use of water will be improved and maximised over time through a number of means. However the objective should also seek to achieve reliability. There should also be recognition of the role that water storage can make to address water allocation issues.

Decision sought:

Amend Objective 052

Objective 052 as follows:

The reliability and efficiency of allocation and use water use is improved and maximised through time, including by

OR

Add matter f) achieving reliability of supply

SCHEDULE FOUR: Policies

4.1 Ki uta ki tai and integrated catchment management

4.1.1 Policy P1 Integrated catchment management

The policy seeks to provide for an integrated catchment management approach in the Plan and lists a number of principles that will apply. It is considered that use good management practices is a principle that should be included as it is used throughout the Plan and is fundamental to achieving the outcomes that the Plan is seeking. While it is included in Policy P4 it is also an important principle that needs to be recognised as part of integrated catchment management.

Decision sought:

Amend Policy P1 by adding f) use of good management practices.

4.1.2 Policy P4 Minimising adverse effects

While the intent of Policy P4 is recognised the Plan also needs to be consistent with the RMA and provide for adverse effects to be avoided, remedied or mitigated. In addition minimising adverse effects should include to the extent 'reasonable' not just 'practicable'. Something may be 'practicable' but actually quite unreasonable.

Decision sought:

Amend Policy P4:

Where minimisation of adverse effects is required by the policies in the Plan minimisation means taking all reasonable steps to reduce adverse effects of the activity and includes:.....

4.2 Beneficial use and development

4.2.1 Policy P7 Uses of land and water

The policy seeks to recognise the beneficial use of a number of activities. However the activities should also be provided for. Horticulture NZ supports the recognition of food production and harvesting but the list should also include primary production, which may produce goods other than food.

Decision sought:

Add l) primary production

Amend Policy P7 by adding: shall be recognised and provided for.

4.2.2 Policy P8 Beneficial activities:

Policy P8 sets out a range of activities that are 'recognised and generally appropriate.'

Horticulture NZ seeks that removal and disposal of pest species and material declared as unwanted organisms under the Biosecurity Act 1993 be included as a beneficial activity. The ability to remove and dispose of such pests and organisms is essential for the wellbeing of the region.

The inclusion in the policy will establish the framework to implement the new objective as sought in Schedule 3 of this submission to ensure that the Plan has a framework to enable disposal of infected material for biosecurity purposes and treatment of areas to manage incursions of unwanted organisms.

It is noted that the policy includes retirement, fencing and planting of riparian margins. The need for on-going maintenance should also be recognised.

Decision sought:

Include an additional policy in Policy P8 Beneficial activities:

m) removal of pest species identified in the Regional Pest Management Strategies and material declared as unwanted organisms under the Biosecurity Act 1993.

Amend point f) to include management of riparian margins.

4.2.3 Policy P10 Contact recreation and Maori customary use

Policy P10 sets out the policy framework for contact recreation. Objective 024 differentiates between primary contact recreation and secondary contact recreation. Policy P10 does not make the clear separation as provided for in the Objective. It needs to be clear in the policy that there is differentiation. For instance b) appears to apply to primary contact recreation but it is not clear.

Decision sought:

Amend Policy P10 to differentiate between provisions which apply to primary contact recreation and those which apply to secondary contact recreation. Alternatively have a separate policy for each.

4.2.4 Policy P14 Incompatible activities adjacent to regionally significant infrastructure and renewable electricity generation activities.

Horticulture NZ appreciates the need to ensure that regionally significant infrastructure and renewable electricity generation activities are not compromised by location of incompatible activities. It is considered that this approach also needs to apply to primary production activities which can be compromised by location of incompatible activities.

Decision sought:

Add a new policy - Incompatible activities adjacent to primary production activities. Primary production activities will be enabled by ensuring that new use and development, particularly sensitive activities do not locate adjacent to primary production activities to avoid potential reverse sensitivity effects, particularly through complaints about odour, smoke, dust or spray drift.

4.3 Natural form and function

4.3.1 Policy P26 Natural processes

Policy P26 should refer to 'adverse effects' as positive effects need not be minimised. The approach should be that the adverse effects are avoided, remedied or mitigated,

which includes minimising effects.

Decision sought:

Amend Policy P26: use and development will be managed to avoid, remedy or mitigate adverse effects on the integrity and functioning of natural processes.

4.4 Biodiversity, aquatic ecosystem health and mahinga kai

4.4.1 Policy P32 Adverse effects on aquatic ecosystem health and mahinga kai

The policy sets out a number of steps for managing aquatic ecosystem health and mahinga kai but links them all with 'and'. The management approaches are steps and should be linked with 'or' as it is not practical to achieve all the steps.

Decision sought:

Amend Policy P32 clauses a) b) and c) by changing 'and' to 'or'

4.4.2 Policy P37 Values of wetlands

The policy seeks to include activities in and **adjacent** to natural wetlands to maintain their values. It is recognised that managing the activities in the natural wetlands is appropriate but there is a question as to what extent the council should be controlling activities adjacent – which is not defined as to what the extent may be.

Decision sought:

Delete 'and adjacent' from Policy P37.

4.5 Sites with significant values

4.5.1 Policy P41 Managing adverse effects on ecosystem and habitats with significant indigenous biodiversity values

The policy sets out a number of steps for managing adverse effects on ecosystem and habitats with significant indigenous biodiversity values but links them all with 'and'. The management approaches are steps and should be linked with 'or' as it is not practical to achieve all the steps.

Decision sought:

Amend Policy P41 clauses a) b) and c) by changing 'and' to 'or'.

4.5.2 Policy P49 Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes

The policy seeks to include activities on sites **adjacent** to outstanding natural features and landscapes and special amenity landscapes. It is unreasonable to place a burden on a landowner for being adjacent to a site that is identified. The identification should include that appropriate area and not apply controls beyond that site. The RMA provides for the protection of the outstanding natural features and landscapes – not the land around the feature.

Decision sought:

Delete Policy P49

4.6 Air Quality – 4.7

4.6.1 Policy P52 Managing ambient air quality

Changes have been sought to Objective 039 as the objective is for ‘ambient air’ quality but the term is not defined in the Plan. The policy seeks to implement the objective and the same comment applies - It should be clear ambient air quality is distinct from localised air quality.

The National Ambient Air Quality Guidelines (2002) has the following definition for ambient air:

The air outside buildings and structures. This does not refer to indoor air, air in the workplace, or contaminated air discharged from a source.

Decision sought:

Include a definition for ‘ambient air’ as follows:

Ambient air is the air outside buildings and structures. This does not refer to indoor air, air in the workplace, or contaminated air discharged from a source.

4.6.2 Policy P55 Managing air amenity

Policy P55 seeks to manage air amenity to minimise offensive or objectionable odour, dust, smoke and particulate matter, fumes, ash and visible emissions. It needs to be clear that the air quality amenity is different according to the receiving environment and that the management should reflect the different environments. This is particularly important in terms of assessing complaints, such as reverse sensitivity complaints.

Decision sought:

Amend Policy P55 as follows:

Activities are managed to achieve air quality amenity which reflect the characteristics of the different receiving environments in urban, rural, industrial and the coastal marine areas to minimise potential for offensive or objectionable odour, dust, smoke and particulate matter, fumes, ash and visible emissions and to avoid reverse sensitivity conflicts.

4.6.3 Policy P56 Outdoor burning.

The focus should be on avoiding, remedying or mitigating adverse effects.

Decision sought:

Amend Policy P56:

The adverse effects on amenity, people’s health and property from odour, smoke and dust, fumes and visible emissions from outdoor burning will be avoided, remedied or mitigated, particularly through the use of good management practices.

4.6.4 Policy P60: Agrichemicals and fumigants

Policy P60 is supported as it incorporates good management practices.

Decision sought:

Retain Policy P60.

4.7 Discharges to land and water

4.7.1 Policy P65 Minimising effects of nutrient discharges

The approach in Policy P65 is generally supported but there needs to be clear recognition of the need to work with industry organisations in establishing good management practices.

Decision sought:

Amend the definition of good management practices as sought in Schedule 2 to include recognition of the contribution industry organisations make to developing good management practices.

4.7.2 Policy P69 Human drinking water supplies.

It is recognised that human drinking water supplies are essential and the policy seeks that adverse effects are 'avoided to the extent practicable'. There should be recognition of good management practices as a tool to manage avoid adverse effects.

Decision sought:

Amend Policy P69:

The adverse effects from discharges to land and water on the quality of **community drinking water supplies** and **group drinking water supplies** shall be avoided to the extent practicable through the use of good management practices.

4.7.3 Policy P90 Discharges of hazardous substances

Policy P90 for discharges of hazardous substances is supported as it relies on good management practices which is supported.

Decision sought:

Retain Policy P90 Discharges of Hazardous substances

4.7.4 Policy P95 Discharges to land

Policy P95 is a generic policy applying across all discharges to land and the relationship to other policies, such as Policy P96 for rural land use activities is unclear. Horticulture NZ considers that the focus should be on life supporting capacity of soil – not soil health. By ensuring that the discharge doesn't cause more than minor adverse effects of life supporting capacity of soils means that clauses c) and d) are not necessary as those are considerations in life supporting capacity of soils. It needs to be clear what effects the policy is seeking to address under public health and amenity.

If it is odours that arise from the discharge then the matter is addressed under air quality. The background receiving environment also needs to be taken into account when considering effects on public health and amenity.

Decision sought:

Clarify the relationship between Policy P95 and more activity specific policies.

Clarify what public health and amenity issues the policy seeks to address.

Amend Policy P95 as follows

The discharge of contaminants to land shall be managed by:

- a) ensuring the discharge does not result in more than minor adverse effects to life supporting capacity of soil health
- b) Avoiding discharges that would create contaminated land
- ~~c) not exceeding the natural capacity of the soil to treat, use or remove the contaminant, and~~
- ~~d) not exceeding the available capacity of the soil, to absorb and infiltrate the discharge~~
- e) minimising effects on public health and amenity, taking into account the existing background environment and
- f) ~~not result in a discharge that enters water~~ minimising adverse effects on surface and groundwater quality.

4.7.5 Policy P96 Managing land use

The policy is specific to rural land use so the title should be amended. Use of good management practices is supported.

Decision sought:

Amend Policy P96 Managing rural land use

4.7.6 Policy P100 Riparian margins for cultivation and break feeding

Riparian margins and setbacks are only one form of management for cultivation and may not necessarily be the most appropriate in some situations. The policy should establish the framework for use of all relevant and appropriate good management practices, not one specific tool.

Decision sought:

Delete specific reference to 'riparian setbacks'.

4.8 Taking, using, damming and diverting water

4.8.1 Policy P112 Priorities in times of drought and sever water shortage

Inclusion of rootstock protection in Policy P112 is supported. However it needs to be clear what is meant by 'rootstock protection' so a definition is sought.

Decision sought:

Retain provisions for rootstock protection.

Include a definition for rootstock protection:

Rootstock protection means provision of water required to maintain survival of horticultural or viticultural root crops in drought.

4.8.2 Policy P114 Priorities when demand exceeds supply

Policy P114 establishes a hierarchy for when demand exceeds supplies of health needs of people, stock drinking water then 'other values'. It is unclear what 'other values' may include and if there is a hierarchy between other values. The policy framework should be clear. There also needs to be recognition of existing use rights under section 124.

Decision sought:

Specify 'other values' including food production.

Include recognition of existing takes under section 124 in priority to other consumptive takes.

4.8.3 Policy P115 Authorising takes below minimum flows and lake levels

Policy P115 provides how water will be allocated in times of shortages. Clause b) provides protection for industry where they take from a community drinking water supply which provides a priority over those who take from other sources. It is unclear how the seven years will be applied. It should be for uses prior to the notification of the Plan.

The protection of rootstock survival water is supported. However a change to clause c is sought to be consistent with the definition sought for rootstock protection.

Decision sought:

Amend clause b) by changing 'from' to 'prior to'.

Amend clause c): horticultural and viticultural root crops including perennial crops (excluding pasture species, animal fodder crops and maize) for the soil purpose of avoiding their death provided:

4.8.4 Policy P118 Reasonable and efficient use of water

Policy P118 establishes a framework for considering reasonable and efficient use of water which is supported in principle. Clause b) weeds that efficient use if maximised when designing systems but recognition should also be given to existing systems which would be an unreasonable cost to replace.

Decision sought:

Add to Policy P118

e) taking into account the cost of replacing existing systems.

4.8.5 Policy P120 Taking water for storage

Providing water takes for storage is supported.

Decision sought:

Retain Policy P120.

4.8.6 Policy P128 Transfer of resource consents

Providing for transfer of water permits is supported.

Decision sought:
Retain Policy P128.

SCHEDULE FIVE: Rules

5.1 Air Quality

5.1.1 Rule R1 Outdoor burning – permitted activity

Horticulture NZ supports a permitted activity rule for outdoor burning.

A condition of the rule, and a number of other rules, is that the discharge shall not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke, vapours, droplets or ash beyond the boundary of the property. However there is no direction in the Plan as to how noxious, dangerous, offensive or objectionable will be assessed, or any definitions to provide guidance as to how Council may implement the provision. It is particularly important that any assessment is done in the context of the receiving environment and anticipated amenity for the area.

It is noted that the Policy framework for managing air quality amenity – particularly Policy P55 only includes offensive and objectionable effects. The rules are implementing the policy so noxious and dangerous should be deleted.

There also needs to be specific provision for burning of material for biosecurity purposes to ensure that a rapid response can be undertaken to burn material.

Decision sought:

Add policies to provide:

- guidance as to how, offensive or objectionable will be assessed
- clarity that air quality will vary according the receiving environment in which a discharge is located.

Delete 'noxious, dangerous' from Rule R1.

5.1.2 Rule R2 Frost prevention devices – permitted activity

Horticulture NZ supports the rule to provide for frost prevention devices but notes that the rule refers to noxious, dangerous, offensive or objectionable effects and seeks clarity as to how these are defined and will be assessed.

It is noted that the Policy framework for managing air quality amenity – particularly Policy P55 only includes offensive and objectionable effects. The rules are implementing the policy so noxious and dangerous should be deleted.

Decision sought:

Add policies to provide:

- guidance as to how noxious, dangerous, offensive or objectionable will be assessed
- clarity that air quality will vary according the receiving environment in which a discharge is located.

Delete 'noxious, dangerous' from Rule R2.

5.1.3 New rule – outdoor burning for biosecurity purposes

There needs to be clarity that burning can be undertaken to supposes of disposing of

material infected by unwanted organisms as declared under the Biosecurity Act 1993.

Decision sought:

Add a new rule in Air Quality:

The discharge of contaminants into air from outdoor burning that is undertaken to dispose of unwanted organisms as a declared by MPI Chief Technical Officer or and emergency declared by the Minister under the Biosecurity Act 1993.

5.1.4 Rule R36 Agrichemicals – permitted activity

Horticulture NZ supports the provision for applications of agrichemicals. A few changes are sought to provide clarity.

Clause d) refers to 'residential areas' which is not defined in the Plan. There needs to be clarity as to the extent of 'residential areas' and seek that this is amended to refer to areas zoned 'residential or urban' in district plans.

Clause e) states that there is to be no discharge to water or within 'community drinking water supply protection areas'. These areas are identified on Maps 26, 27, 27a and 27b. The protection areas include significant areas where primary production activities are undertaken. Policy P69 provides that adverse effects on community drinking water supplies is avoided to the extent practicable. It does not seek a restriction within the community drinking water supply protection area. But the rule would preclude any use of agrichemicals in these areas as a permitted activity. Clause c) provides for agrichemicals to be used in accordance with the HSNO Act. The controls on substances address the risks that the substance presents to the environment. To require a limitation on use within 'community drinking water supply protection areas' adds an additional layer of regulation when the efficacy of the substance has been assessed and controls imposed under HSNO which will ensure that adverse effects on community drinking water supplies is avoided to the extent practicable.

Clause f) refers to sections of NZS8409:2004 Management of Agrichemicals that the application is to be in accordance with. However the clause uses the term 'including'. This means that the list is not specific to the listed sections. The sections listed are the most appropriate sections to require compliance with in a regional plan. Other sections in the Standard are not relevant to the functions of the Regional Council so there should not be a requirement that they could be included in the agrichemical provisions in the Plan.

Clause g) requires preparation of a spray plan and notification. Horticulture NZ supports the provisions except not the clause g iii) should be an 'or' rather than 'and'. If written notification as per clause iii) is obtained then there should not be a requirement to comply with clause iv). Clause iv) should only apply if a person has requested that notification for each spray application be provided. Notification should not be the full spray plan as that has been previously provided and the time should be 12 hours as there is often the need to undertake spray operations at short notice to manage pest incursions. Specific notification should only be if the application is to be undertaken close to the boundary of the adjacent property.

It is noted that the Policy framework for managing air quality amenity – particularly Policy P55 only includes offensive and objectionable effects. The rules are implementing the policy so noxious and dangerous should be deleted.

Decision sought:

Add policies to provide:

- guidance as to how noxious, dangerous, offensive or objectionable will be assessed
- clarity that air quality will vary according the receiving environment in which a discharge is located.

Delete 'noxious, dangerous' from Rule R36

Amend clause d): There is no aerial spraying in areas zoned residential or urban in district plans.

Clause e) Delete 'or within community drinking water supply protection areas'.

Clause f) Delete 'including'

Clause g iii) Change 'and' to 'or'

Amend Clause g iv) If requested by the owner/ occupier of property identified as a sensitive area and the application will be within 100 metres of that property provide notification of intent to spray 12 hours prior to the discharge of agrichemicals.

5.1.5 Rule R 37 Agrichemicals into water – permitted activity

Horticulture NZ supports the rule for applications of agrichemicals into water. However the rule requires 'the applicator' to carry out the notification requirements.

In many cases the 'applicator' may not be the person responsible for the operation and may not have the information required for notification. It is more appropriate that the notification is carried out by the person who is responsible for the operation.

Decision sought:

Amend Rule R 37 Clause e) by deleting 'applicator' and replacing with 'person responsible for the application'.

5.1.6 Rule R 38 Agrichemicals not permitted – discretionary activity

It is considered that if an application of agrichemicals is not permitted it should be provided for as a Restricted Discretionary Activity with clear matters of discretion listed. Such an approach provides certainty to both council and users as to what matters will be considered.

Decision sought:

Amend Rule R 38 to Restricted Discretionary and include matters of discretion as follows:

Matters of discretion

The council will restrict its discretion to the matters below for restricted discretionary activities:

1. The location, nature, scale, timing, method and duration of the agrichemical application.
2. The nature of the areas sensitive to agrichemicals that may be affected and methods to avoid adverse effects on those areas.
3. Any beneficial effects of the agrichemical application.
4. Any effects on species which are not the target of the agrichemical application.
5. Any effects on water quality including potable water.
6. Adverse effects or risks to human health or public use of the area.
7. Extent of compliance with relevant national regulations, nationally accepted guidelines or codes of practice, including compliance with the NZS 8409:2004 Management of Agrichemicals.

5.1.7 New rule – application of agrichemicals for biosecurity purposes.

There needs to be clear provision agrichemical applications required as part of a response to a biosecurity incursion of unwanted organisms. This may need to be undertaken at short notice.

Decision sought:

Add a new rule as follows:

Rxx Agrichemicals for biosecurity purposes – permitted activity

The discharge of agrichemicals into air or onto or into land where it may enter water to manage an incursion of unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993 is a permitted activity.

5.2 Discharges to water

5.2.1 Rule R57 Discharge of hazardous substances – non complying activity

Rule R57 conflicts with Rule R38.

Rule R38 provides for discharge of agrichemicals where it is not permitted by Rule R36 or Rule R37 is a discretionary activity.

Rule R57 states that where an activity is not permitted by Rule R36 and Rule R37 it is a non-complying activity.

Rule R38 is the specific rule for agrichemicals so should be the rule that applies. There are no listed matters of discretion in Rule R38 so there is no need to default to a non-complying rule if Rule R38 is not met.

It should also be clear that application of fertilisers that does not meet the conditions of Rule R82 is provided for under the discharges to land provisions and not Rule R57.

Rule R42 is for minor discharges as a permitted activity but Rule R57 makes any activity not complying with Rule R42 a non-complying activity. This is considered an

inappropriate activity status for minor discharges that may not meet one of the conditions in Rule R42.

Decision sought:

Delete Rule R36, R37 and R38 from Rule R57.

Include a restricted discretionary rule for minor discharges that do not meet conditions in Rule R42 and delete Rule R42 from Rule R57 and include matters of discretion, being the permitted activity conditions that are not met.

Include fertiliser applications that do not meet conditions in Rule R82 in the new restricted discretionary activity rule, include matters of discretion, being the permitted activity conditions that are not met.

5.3 Discharges to land

5.3.1 Rule R82 Application of fertilisers from ground based or aerial applications – permitted activity

The rule provides for the application of fertiliser as long it does not go beyond the property boundary, including as a result of wind drift. The premise should be that there are no adverse effects of the discharge beyond the boundary – not a prohibition. The rule does not require the use of good management practices, which are the mechanism by which drift is avoided.

Decision sought:

Amend Rule R82 clause a)

The discharge does not cause adverse effects beyond the boundary of the property

Add new clause: The applications will be undertaken using good management practices to minimise the potential for wind drift having regard to the Code of Practice for Nutrient Management (Fertiliser Association).

5.3.2 Rule R92 All discharges to land within community drinking water supply protection areas – restricted discretionary activity

The way that Rule R92 is written requires that activities that all discharges other than those permitted in specified rules are restricted discretionary rules. The intent appears to be that the rule applies to a specific set of activities. Changes are sought to the wording to clarify this intent.

Decision sought:

Amend Rule R92 as follows:

The discharge of contaminants onto or into land from pit latrines, wastewater systems, biosolids or farm refuse dumps that occurs within a community drinking water supply protection area and is not permitted in rules R71, R75, R77, R78 or R 89 is a restricted discretionary activity.

Amend the title: Specific discharges to land within community drinking water supply protection areas

5.3.3 Rule R93 All other discharges to land

Rule R93 makes any activity that does not meet the permitted activity conditions a discretionary activity. It is considered that these activities which could appropriately be managed as restricted discretionary activities with clear matters of discretion listed.

If some activities are considered to specifically need consideration under a full discretionary rule then the s32 should provide reasons to justify this approach.

Decision sought:

Amend Rule R93 to a restricted discretionary rule with matters of discretion.

5.4 Land use

5.4.1 Rule R94 Cultivation or tilling of land

The effects of cultivation and especially sediment run off into surface water bodies can be managed in many ways, from land contouring to silt traps, earth bunds and raised headlands. It is considered that having a generic 5m rule here is not useful in managing run off, especially considering that a drain or water race is currently considered a surface water body under the proposed definition.

The focus should be on the most appropriate methods to minimise sediment run-off to water. The Plan uses good management practices for a number of activities and management of cultivation is one such activity where such an approach is appropriate. The Horticulture NZ 'Erosion and sediment control guidelines' could be included on the GW website of good management practices. This approach implements Policy P96 which seeks that rural land use activities are managed using good management practices.

Decision Sought:

Amend as follows:

Delete clauses a) and c) and replace with amended b) as follows:

cultivation is undertaken in accordance with **good management practice** such as bunding, silt traps, interception drains, cultivation on the contour or other alternative methods to minimise potential sediment run-off to surface water body.

Add an Advice Note:

Examples of methods for minimising sediment run-off can be found in the 'Erosion and Sediment Control Guidelines for Vegetable Production (Horticulture New Zealand 2014).

<http://www.hortnz.co.nz/assets/Uploads/Auckland-Waikato-ES-Control-Guidelines-1-1.pdf>

5.4.2 Rule R96 Cultivation and break feeding – discretionary activity

It is considered that if cultivation is not permitted it should be provided for as a Restricted Discretionary Activity with clear matters of discretion listed. Such an approach provides certainty to both council and users as to what matters will be

considered.

Decision sought:

Amend Rule R96 to Restricted Discretionary and include matters of discretion as follows:

The council will restrict its discretion to the matters below for restricted discretionary activities:

- (a) the location, nature, scale, timing and duration of the activity,
- (b) effects of the activity and associated sediment run-off and the methods to be taken to avoid, remedy or mitigate them.

5.4.3 New rule Earthworks and vegetation clearance for biosecurity purposes– permitted activity

There needs to be provision for both earthworks and vegetation clearance to be undertaken as permitted activities. Vegetation clearance, including in riparian areas, may be required to remove infected vegetation or unwanted plants and earthworks may be required for burial of infected material. The permitted activity thresholds may be exceeded in the event of a major incursion that requires significant burial of infected material. Requiring resource consent would increase response times and increase the threat posed by the unwanted organism. Vegetation clearance needs to be provided for as plants in riparian areas may be infected and so require removal. In the PSA incursion wilding kiwifruit in riparian areas needed to be removed as they were affected.

Decision sought:

Add a new rule as follows:

Rxx Earthworks and vegetation clearance for biosecurity purposes – permitted activity

Earthworks and vegetation clearance undertaken to manage an incursion of unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993 is a permitted activity.

5.5 Wetland and beds of lakes and rivers

5.5.1 Rule R105 Planting and pest plant control in natural wetlands, significant natural wetlands and outstanding natural wetlands

The rule provides for the removal or control of pest plants, which is undefined. It should also include removal of unwanted organisms for biosecurity purposes.

Decision sought:

Amend Rule R 105 by adding after 'pest plants' 'or unwanted organisms'

Amend Condition g) only appropriate pest plants as identified in the Regional Pest Management Strategy or unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993 are deliberately removed or controlled.

5.5.2 Rule R122 Removing vegetation – permitted activity

The rule provides for removal of vegetation as a permitted activity subject to conditions.

Removal of vegetation infected by unwanted organisms should be provided for as a permitted activity without limitations on the size of the area for removal.

Decision sought:

Amend Rule R122 by adding: Conditions a-m do not apply to the removal of vegetation or unwanted organisms for biosecurity purposes.

5.6 Water allocation

5.6.1 Rule R136 Take and use of water – permitted activity

Rule R136 provides for the take and use of water as a permitted activity but establishes thresholds for the size of the take based on property size.

Horticulture NZ considers that the thresholds unfairly penalise horticultural users who may be on a small property. This is an inequitable allocation mechanism and gives priority to those with larger properties. The definition of property applies to a contiguous area of land in one ownership. Therefore if a grower has a number of small titles with the total area under 20ha the lower threshold will apply. In addition Dairy shed washdown is provided for as a permitted activity up to 70L per day per stock unit yet horticultural use on small properties is limited to 10m³.

Decision sought:

Amend Rule R136 a) by adding an additional line:

Property size	Rate	Volume per day
Less than 20ha in horticultural production	2.5 L/s	20m ³

5.6.2 Rule R141 Take and use of water – controlled activity

Rule R141 provides for takes on properties of less than 20ha subject to conditions, including that the take does not exceed 20m³ in combination with takes provided for in Rule R136.

Changes have been sought to Rule R136 to provide for smaller horticultural properties so amendments are sought to Rule R141.

Decision sought:

Amend Rule R 141 as follows:

Add to clause b) or for properties of less than 20ha in horticultural production shall not exceed 40m³.

5.6.3 Rule R143 All other take and use – discretionary activity

Rule R143 makes the majority of take and use of water consents discretionary activities. Horticulture NZ considers that such an activity status is appropriate where a water body is near full allocation, it is not necessary where there is adequate water to be allocated. The activity status should reflect the potential for adverse effects and where the potential is lower restricted discretionary status should apply with matters of discretion.

Decision sought:

Include a new rule – takes and uses restricted discretionary activity for takes where the water body is less than 80% allocated.

Include matters of discretion:

Volume of water taken, efficiency, effects on neighbouring bores, reductions in times of low flow, metering requirements.

5.6.4 Rule R143 Temporary water permit transfers – controlled activity

The rule to provide for temporary transfer of water permits as a controlled activity is supported as it provides flexibility for growers where they are sharing or leasing land.

Decision sought:

Retain Rule R143.

SCHEDULE SIX: Other methods

6.1 Method M12 Sustainable land management practices

Method M12 will 'encourage sustainable land management' and 'promote good management practices' developed in partnership with land owners and rural industries.

Good management practices are a central method for managing activities in the Plan. There should be an explicit method that provides for the development of good management practices that involves all relevant parties. It is essential that if there is to be buy-in to the good management practices that they are developed jointly.

Decision sought:

Add a new method - Development of good management practices.

The Council will work with industries and relevant stakeholders to develop good management practices that provide for robust and reasonable tools to manage activities regulated through the Plan.

SCHEDULE SEVEN: Schedules

7.1 Maps 26, 27 27a, 27b and 27c. – Community drinking water supply protection areas

Horticulture NZ is concerned about the impacts of the community drinking water supply protection areas. It is recognised that the community drinking water sources should be protected but the extent to which the protection areas are necessary or the most practicable response is questioned.

Decision sought:

Delete Maps 26, 27 27a, 27b and 27c. – Community drinking water supply protection areas and replace with community drinking water sources.