

SUBMISSION ON PC8 to the Regional Plan: Water for Otago

14th August, 2020

TO: Environmental Protection Agency
NAME OF SUBMITTER: Horticulture New Zealand



CONTACT FOR SERVICE:

Rachel McClung
Environmental Policy Advisor – South Island
Horticulture New Zealand
PO Box 10-232 WELLINGTON
Ph: 027 582 7474
rachel.mcclung@hortnz.co.nz

Helen Atkins
Director, Atkins Holm Majurey Limited

PO Box 1585, Shortland Street,
AUCKLAND 1140

DDI +64 9 304 0421 | MOB +64 021 405
464 | FAX: +64 9 309 1821

helen.atkins@ahmlaw.nz

Introduction

Horticulture New Zealand (HortNZ) welcomes any opportunity to work with Otago Regional Council and to discuss our submission.

HortNZ could not gain an advantage in trade competition through this submission.

HortNZ wishes to be heard in support of our submission and would be prepared to consider presenting our submission in a joint case with others making a similar submission at any hearing.

This submission is supported by the following HortNZ Product Groups and local associations: Summerfruit New Zealand, Tomatoes New Zealand, Vegetables New Zealand, Processed Vegetables New Zealand, Potatoes New Zealand and the Central Otago Fruitgrowers Association.

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

Submission structure

1. Background to HortNZ
2. HortNZ's RMA involvement
3. Horticulture in the Otago Region
4. HortNZ's overall submission and high-level relief sought

Attachment A: HortNZ's specific submissions on PC8, including reasons and detailed relief sought.

1. Background to HortNZ

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

HortNZ advocates for and represents the interests of 5000 commercial fruit and vegetable growers in New Zealand, who grow around 100 different crop types and employ over 60,000 workers. Land under horticultural crop cultivation in New Zealand is calculated to be approximately 120,000 hectares.

The horticulture industry value is \$6.39 billion¹ and is broken down as follows:

Industry value	\$6.39bn
Fruit exports	\$3.5bn
Vegetable exports	\$0.7bn
Total exports	\$4.2bn
Fruit domestic	\$0.88bn
Vegetable domestic	\$1.28bn
Total domestic	\$2.19bn

¹ <https://www.hortnz.co.nz/assets/HortNZ-Annual-Report-2019-20-June-2020.pdf>

It should also be acknowledged that it is not just the economic benefits associated with horticultural production that are important. The rural economy supports rural communities and rural production defines much of the rural landscape. Food production values provide a platform for long term sustainability of communities, through the provision of food security. The essential service that horticulture provides has been further highlighted through the Covid-19 response.

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

2. 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.

The principles that HortNZ considers in assessing the implementation of the RMA include:

- The effects-based purpose of the RMA;
- 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 grower's interests both in an environmental and sustainable economic production sense.

3. Horticulture in the Otago Region

There are approximately 191 commercial growing operations in the Otago Region. These include a wide variety of both fruit and vegetable crops. Currently the highest concentrations of growers are in the Central Otago and Waitaki Districts. There are growers located outside these areas however. The region is nationally recognised for its unique productive capacity and place in the national food supply network.

The combination of soil and climate means that Central Otago is especially suited to growing high quality crops. Stone fruit such as; cherry, apricots, peaches and nectarines, and pipfruits (predominantly apples) are the dominant crops.

Whereas, in the Waitaki District area, a wide variety of fruit and vegetable crops are grown. These include: yams, carrots, courgettes, leeks, cabbage, pumpkin, potatoes, lettuce, broccoli, cauliflower, silverbeet, spring onions, celery, leafy greens, salad greens, brussel sprouts, tomatoes, asparagus, cucumber, apples, pears, nectarines, peaches, plums, blackcurrants, raspberries, strawberries and cherries.

Central Otago is one of the main commercial growing areas in New Zealand for stonefruit and accounts for 59% of the planted stonefruit orchards. Other stonefruit regions include Hawkes Bay (31%), north of Auckland, Marlborough, and Canterbury (10% combined)². Importantly, Summerfruit New Zealand have advised that 85% of cherry orchards are in the

² <https://www.summerfruitnz.co.nz/industry/regions/>

Central Otago District. Cherries are a high value crop and Central Otago is a critical cherry growing area.

Cherries are a significant export crop for New Zealand, being the fourth highest horticultural earner (behind Kiwifruit, Apples and Avocados)³. Viticulture is also a significant earner and strong contributor to the Otago economy.

The New Zealand (NZ) cherry industry is currently undergoing significant expansion with production more than doubling since 2013. One of the key features of the Central Otago region is the high diurnal range (DRT). This is the difference between daytime and night-time temperatures. Due to the continental type climate in Central Otago, the DRT is large and is thought to positively contribute to increasing the sweetness of Central Otago cherries. This also assists with the firmness and crunch of the fruit which enhances the flavour, taste and general appeal to the consumer, particularly in the Asian markets.

NZ cherries are able to hold a consistent price of 50% or more over cherries from key competitors (i.e. Chile). In order to retain this market, it is of critical importance to the industry that the focus remains on a premium high value cherry. In order to do this, cherry growers rely on a reliable water supply to ensure a consistent quality and yield.

4. HortNZ's overall submission and high-level relief sought

HortNZ understands that PC8 amends existing, and introduces new provisions for:

- Managing, through enhanced policy direction, decision-making on stormwater, wastewater and rural discharges;
- Effluent storage and application to land through new minimum standards;
- Promoting good farming practices, including better managing contaminant loss from intensive grazing and stock access to water bodies as well as incentivising the use of small in-stream sediment traps;
- Improving management of sediment loss from earthworks for residential development, and
- Clarifying provision for nationally and regionally significant infrastructure in wetlands.

These targeted changes are to address known deficiencies in the current planning framework and will remain until a new comprehensive plan review of the Regional Land and Water Plan replaced it.

HortNZ's submissions are limited to the parts of the plan change that relate to growing fruits and vegetables and where we consider further clarity is required to ensure there are no unintended consequences for growing fruits and vegetables.

The changes sought in proposed PC8 took immediate legal effect from the date of notification (6 July 2020), pursuant to section 86B(3) of the Resource Management Act 1991.

As per the Ministerial Direction, a new regional plan for land and water resources is to be notified by December 2023 in accordance with the requirements of the NPS-FM and it is intended that that plan be operative by 31 December 2025.

³ <https://www.freshfacts.co.nz/files/freshfacts-2018.pdf>

Therefore, it is anticipated that the interim framework proposed by PC8 will be in place for no longer than 5 years.

4.1 ORC Consultation

HortNZ were disappointed in the lack of community engagement prior to the notification of PC8 and the reluctance by Council to put the community meetings on hold when it was known that Covid-19 was present in Otago. New Zealand faced unprecedented times and growers were, and are still, coming to terms with the new challenges presented by the Covid-19 pandemic.

HortNZ and local growers are strongly of the view that Council must work in good faith and collaboratively with us, particularly on the Regional Water Plan review and review of the Regional Policy Statement.

4.2 The importance of healthy water for horticulture

Healthy water is essential for the production of food. Horticultural production in all regions of New Zealand, including Otago, is reliant on reliable supplies of fresh water that are suitable for sustained crop production and post-harvest washing and processing.

The values of food production land are inseparable from connected freshwater. Freshwater is a necessary component of food production land because:

- Freshwater processes formed our most productive land through erosion and deposition creating plains of arable soil in the lowlands. These make up the 5% of New Zealand that is available for high value horticultural production (versatile soils).
- Without clean freshwater to cultivate crops and to wash and prepare food for market the value of this finite and precious resource is compromised.
- Food cannot be grown without water and food cannot be grown without causing discharges.

In summary, the values of land and water are interlinked.

4.3 Horticulture and Good Management Practice

HortNZ strongly supports recognition of industry led initiatives to improve practice and achieve environmental outcomes. Such initiatives include (but are not limited to):

- Farm Environment Plans
- Good Management Practice
- NZGAP⁴, EUROGAP, and GLOBALGAP accreditation
- HortNZ Erosion & Sediment Control Guidelines for Vegetable Production (2014)
- A Code of Practice for the Management of Greenhouse Nutrient Discharges (2007) and A Growers' Guide to The Management of Greenhouse Nutrient Discharges (2007)
- HortNZ Vegetable Washwater Discharge Code of Practice

These codes of practice are underpinned by research that has been jointly funded by the government and the horticulture industry.

⁴ <http://www.newzealandgap.co.nz/>

The above, and more, can be found at: <http://www.hortnz.co.nz/our-work/natural-resources/GoodManagementPractice>.

4.4 Horticulture and Nitrate Management

HortNZ have concerns about the ability to accurately assess nutrient discharges from horticultural systems, specifically the deficiencies in OVERSEER to model horticultural crops for the life of this plan.

HortNZ does understand that the rules that reference OVERSEER (Rules 12C) are out of scope of PC8. However, this is a significant issue for horticulture and therefore we raise it here to bring it to Council's attention in the knowledge that Council is currently progressing a full review of the Plan.

HortNZ support the use of Farm Environment Plans at good management practice and believe that environmental gains will be achieved through this method for management of crops, regardless of an OVERSEER calculation.

4.5 Food security

Prior to Covid-19, projections around New Zealand's expected population increase and annual food volumes available for consumption in New Zealand show that domestic vegetable supply will not be able to sustain our future population consumption needs⁵. Already many New Zealanders, are struggling to meet the recommended daily intake of 3 plus vegetables and 2 plus fruit a day. In 2016/2017, only 38.8 percent of New Zealand adults and 49.8 percent of children met the recommended daily fruit and vegetable intake⁶. Those living in the most deprived neighbourhoods were less likely to meet the recommended intakes and were more likely to be obese⁷. 1 in 5 children are living in food insecurity⁸.

Abstractions and discharges are needed to grow the food New Zealanders need to eat. Reasonably priced, healthy food, is essential for human health. The Otago Region plays a critical role in the national food production system the loss of which is not easily picked up elsewhere in New Zealand given the unique production capability of the region.

4.6 10-year expiry term

New Policy 7.D.6 in PC8 provides that all resource consents for discharges of nitrogen under Rule 12.C.3.2 will expire in 10 years after being granted. The reason provided for the 10-year expiry in Policy 7.D.6 is to provide clear direction on appropriate consent duration for decision making⁹. While this is a valid consideration it does come with significant investment uncertainty for consent holders.

⁵ <http://www.hortnz.co.nz/assets/Media-Release-Photos/HortNZ-Report-Final-A4-Single-Pages.pdf>

⁶ <https://minhealthnz.shinyapps.io/nz-health-survey-2016-17-annual-data-explorer/ w e9a07e83/ w aa03fb73/ w 320818d4/ w 26fa6ce8/ w f50ad45f/ w dbba0f02/#!/explore-indicators>.

⁸ <https://www.health.govt.nz/system/files/documents/publications/household-food-insecurity-among-children-new-zealand-health-survey-jun19.pdf>

⁹ PC8 Section 32 Evaluation Report, page 17.

At the end of the 10 years the consent holders will need to apply for a renewal of the consent under s124, or for a new consent altogether under Part 6 of the RMA.

An alternative to the 10-year expiry date is to have a longer term – 15 or 20 years, and to provide a review condition of consent, that states that once the new regulatory framework is in place, this triggers an immediate review of the conditions under s128 of the RMA. The reality is that s128 applies in any event, as subsection (b) provides as follows:

(b) in the case of a coastal, water, or discharge permit, when a regional plan has been made operative which sets rules relating to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, and in the regional council's opinion it is appropriate to review the conditions of the permit in order to enable the levels, flows, rates, or standards set by the rule to be met;

The benefit of including a review condition framework in PC8 is that:

- It provides an alternative to the 10-year expiry;
- It provides certainty to the both the Council and the consent holder about the review process and outcomes.

It is important to note that the benefit of a review over a renewal is that the consent cannot be revoked. However, the amount of nitrogen discharged can be clawed back via a review if the regulatory framework supports such an approach. In short, a longer-term consent with a review conditions are more secure than a short-term expiry consent.

4.7 Summary of the decisions sought by HortNZ

HortNZ generally support PC8 in its entirety. HortNZ are seeking the following outcomes for PC8:

- An efficient, effective and fair regulatory framework that provides for greater security for the Otago Region and horticulture.
- Clarity and certainty of the provisions that apply to horticulture.
- Recognition of the deficiencies in OVERSEER to model horticultural crops.
- Appropriate consent durations in Policy 7.D.6 for discharge of nitrogen under Rule 12.C.3.2
- Recognition that water quality needs to be suitable for food production. And consideration that the quality of water for irrigation and processing food crops is of critical importance for producing healthy food.

Without limiting the generality of the foregoing, HortNZ's specific concerns together with a summary of the decisions it seeks from the Council are set out in **Attachment A**.

HortNZ seeks the following decisions from the Environment Court:

1. That the decisions sought in **Attachment A** of this submission be accepted; and/or
2. Alternative amendments to the provisions of PC8 to address the substance of the concerns raised in the submission; and
3. All consequential amendments required to address the concerns raised in this submission and ensure a coherent, robust and fair plan.

Attachment A: HortNZ's Specific Submissions on proposed PC8, including reasons and detailed relief sought

Sub pt	Plan provision	Support/Oppose	Reason	Decision Sought
Part A: Discharge Policies				
1	Amended Policy 7.C.5	Support	Healthy water is essential for the production of food. Horticultural production in all regions of New Zealand, including Otago, is reliant on reliable supplies of fresh water that are suitable for sustained crop production and post-harvest washing and processing.	Retain as notified.
2	Amended Policy 7.C.6	Support	As above. Healthy water is essential for the production of food. Strong policy direction is required to ensure reticulated stormwater and sewage systems do not create environmental effects that result in unhealthy contaminated water.	Retain as notified.
3	New Policy 7.C.12	Support	As above. Healthy water is essential for the production of food. Strong policy direction is required to ensure human sewage is managed appropriately to protect healthy water.	Retain as notified.
4	Amended Policy 7.D.5	Support	HortNZ support the recognition of cultural values and the general strengthening of this policy.	Retain as notified.
5	New Policy 7.D.6	Oppose in part	HortNZ support a policy to provide clear direction for resource consent applications for nitrogen discharge. However, HortNZ have concerns about a 10-year duration for resource consents and the ability to accurately assess	Amend Policy as follows: <u>7.D.6 ...</u> <u>(a) Restrict the duration of resource consents to a term of no more than 105 years; and</u> <u>(b) Have particular regard to:</u>

			<p>nutrient discharges from horticultural systems, specifically the deficiencies in OVERSEER to model horticultural crops for the life of this plan.</p> <p>A 10-year consent duration does not provide enough security for a growing operation. A review condition is preferable to consent expiry. If a date is deemed necessary, then HortNZ support a 15-year duration.</p> <p>HortNZ does understand that the rules that reference OVERSEER (Rules 12C) are out of scope of PC8. The However, this is a significant issue for horticulture and therefore we raise it here to bring it to Council's attention in the knowledge that Council is currently progressing a full review of the Plan.</p> <p>Also, the rules specifically reference OVERSEER version 6. We understand that this version has been superseded and is no longer available. This will cause issues for horticulture and any activity that may be required to calculate a nitrogen leaching rate.</p> <p>HortNZ support the use of Farm Environment Plans at good management practice and believe that environmental gains will be achieved through this method for management of crops, regardless of an OVERSEER</p>	<p>...</p> <p><u>(vi) The limitations of OVERSEER for modelling nitrogen loss rates for horticultural activities and the environmental gains made through good management practice.</u></p> <p>We also note that the numbering of the criterion under 7.D.6 (b) is incorrect, with (iv) being repeated twice. This is a minor matter, but should be corrected to avoid future confusion.</p>
--	--	--	---	--

			calculation. We believe new Policy 7.D.6 can acknowledge this through an additional criterion.	
Part C: Good Farming Practices				
6	New Policy 7.D.9	Oppose	<p>It is unclear if this policy applies to horticultural activities or not.</p> <p>The Glossary of the operative Plan does not contain a definition of <i>farming activities</i>. There is a definition of '<i>Agricultural and Horticultural activities</i>', which only applies when that specific term is used, therefore is not relevant to this policy, but it does cause add to the confusion. A new definition of <i>farming activities</i> has not been proposed by the plan change. The Otago Regional Policy Statement, New Zealand Planning Standards, NPSFM, NESFM and RMA do not contain a definition of <i>farming activities</i>. Therefore, are administrators of the plan to rely on a dictionary definition?</p> <p>This confusion may result in unintended consequences for horticulture.</p>	Provide clarity as to the meaning of <i>farming activities</i> and potentially amend the policy to ensure there are no unintended consequences for Horticulture, or delete the policy.
Part F: Sediment Traps				
7	New Rule 13.5.1.10	Support	HortNZ supports a permitted activity for the construction or maintenance of sediments traps.	Retain as notified
8	New Definition – Sediment trap	Support	Definition provides clarity	Retain as notified

Part G: Sediment from earthworks for residential development				
9	New Policy 7.D.10	Support	HortNZ support a best practice approach for earthworks for residential development. Growers are often located on the fringes of urban areas and poorly managed earthworks can adversely affect growing operations and the quality of produce. Also, healthy water is important for producing healthy food.	Retain as notified
10	New Rule 14.5.1.1	Support	<p>For the reasons above and also because food production is a national value identified in the NPSFM 2017 and 2020.</p> <p>Water quality needs to be suitable for food production. This means that the quality of water for irrigation and processing food crops is of critical importance for producing healthy food.</p> <p>Also, clause 14.5.1.1(g) read as matters of discretion and this may cause plan administration difficulties as Rule 14.5.1.1 is a permitted activity. Clause (g) could sit more comfortably within Rule 14.5.2.1. These rules could be strengthened by either replicating clause (g) in Rule 14.5.2.1 or by removing it from Rule 14.5.1.1 and moving it to Rule 14.5.2.1.</p>	<p>Provide greater clarity in the administration of Rule 14.5.1.1 and Rule 14.5.2.1 by either replicating all of clause (g) in Rule 14.5.2.1 or by removing it from Rule 14.5.1.1 and moving it to Rule 14.5.2.1.</p> <p>If Clause (g) is retained in Rule 14.5.1.1, insert new criterion as follows:</p> <p><u>14.5.1.1 (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:</u></p> <p>...</p> <p><u>(v) any significant adverse effects on aquatic life-;</u> <u>or</u> <u>(vi) the rendering of fresh water unsuitable for the irrigation and processing of food crops.</u></p>
11	New Rule 14.5.2.1	Support	As above.	<p>Insert new clause after (d) as follows:</p> <p><u>(e) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:</u></p>

				<p><u>(i) the production of conspicuous oil or grease films, scum or foams, or floatable or suspended materials; or</u> <u>(ii) any conspicuous change in the colour or visual clarity; or</u> <u>(iii) any emission of objectionable odour; or</u> <u>(iv) the rendering of fresh water unsuitable for consumption by farm animals; or</u> <u>(v) any significant adverse effects on aquatic life;</u> <u>or</u> <u>(vi) the rendering of fresh water unsuitable for the irrigation and processing of food crops.</u></p> <p>Consequential renumbering of notified clause (e) and (f).</p>
12	New Definition – Earthworks	Support	HortNZ supports the exclusion of gardening, cultivation and disturbance of land for the installation of fence posts.	Retain as notified
<i>Part H: Nationally or regionally important infrastructure</i>				
13	Amended Policy 10.4.2	Support	Terminology is consistent with higher order planning documents.	Retain as notified