

Update on Plan Change 7

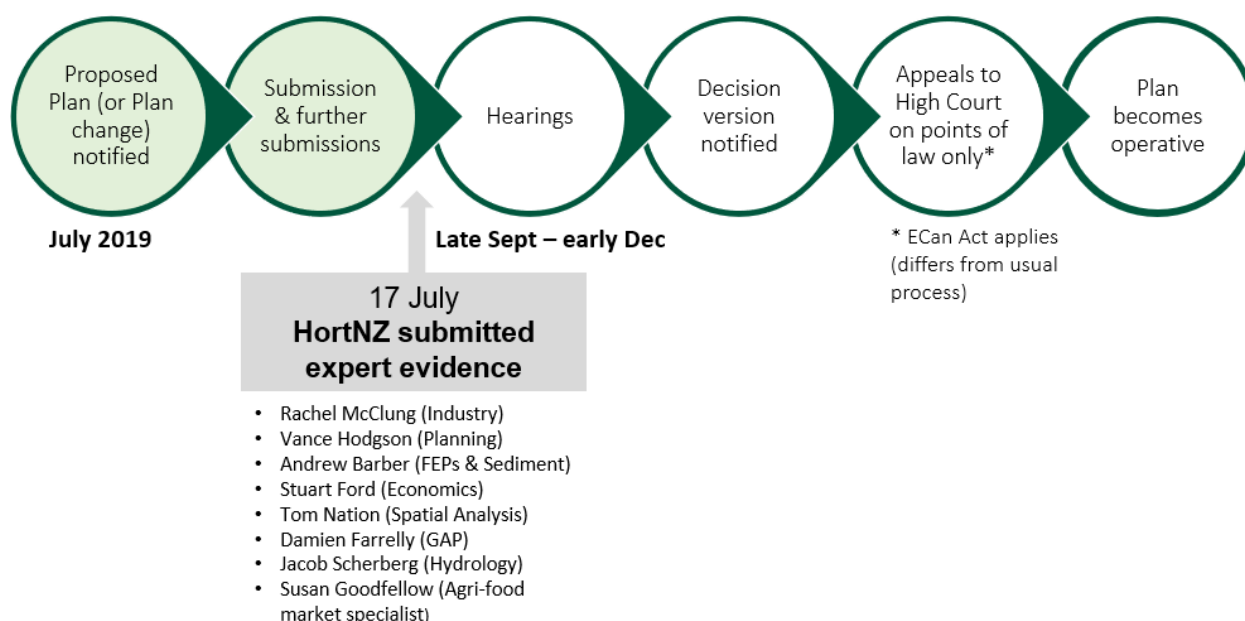
Canterbury Region | August 2020



This summary is an update of where the plan change is in the process and HortNZ's position and the provisions we seek moving into the hearing later this year.

Update on where PC7 is in the plan change process

Plan Change 7 (PC7) was notified by Environment Canterbury (ECan) in July 2019 – it includes a new region-wide framework for commercial vegetable growing in the Canterbury Land and Water Regional Plan (Regional Plan). These rules have had legal effect since notification (i.e. they apply, alongside the current plan rules).



- HortNZ made a submission on the PC7 in September 2019.
- Expert evidence (which will be presented at the Council hearing) was due on 17th July 2020. HortNZ submitted industry evidence (including 5 grower case studies) and experts in the across numerous field (refer diagram above).
 - HortNZ's submission and evidence submitted is available on ECan's website [here](#).

What are the next steps?

- HortNZ will continue to engage with other submitters. The next steps will be to take part in the expert caucusing and then prepare rebuttal evidence if required. After this and once the hearing date is set, we will attend the hearing to present the HortNZ case and answer any questions the hearing panel may have.
- The hearing will occur over multiple days in late September – early December in Christchurch and Timaru.
 - ECan has appointed a panel of independent hearing commissioners – the hearing is an opportunity to submitters to present the changes they seek to the panel.

- Following the hearing – the Hearings Panel will consider submissions and make decisions on what the provisions should be. Because this process is occurring under the ECan Act, the normal RMA appeal rights do not apply. Submitters can only appeal to the High Court on points of law. If the provisions are not appealed, they become operative and the old rules no longer apply.

Background to PC7

Nitrogen rules for farming activities were introduced into the Regional Plan in 2016 (through Plan Change 5). Under these provisions, commercial vegetable growing is considered under the Farming Activity Rules. This presents challenges, including:

- The Regional Plan assigns nitrogen loss rates to land, not the activity – this is problematic for vegetable growers when rotating.
- Growers are required to find land with an appropriate nitrogen loss rate – this makes it difficult for growers from being able to move to new land, and also presents significant complications for consenting.
- The Regional Plan’s complex framework means that no single set of provisions apply to commercial vegetable growing due to a range of sub-region-specific rules - many growers grow vegetables in and across multiple sub-regions.

HortNZ has advocated for the need for a plan change that provides for vegetable growing.

Overview of the framework introduced by PC7

PC7 introduces rules for commercial vegetable growing – based on the ‘Baseline Commercial Vegetable Growing Area’ and lawful Nitrogen Loss Rates.

The notified PC7 provisions:

- Require most vegetable growing (except existing operations less than 0.5ha) to get a resource consent from ECan.
- Require commercial vegetable growing to operate at Good Management Practice.
- Farm Environment Plan (prepared under Schedule 7) is required as part of resource consent application.
- Required to demonstrate how relevant nutrient loss reductions will be achieved.
- New or expanded (i.e. area beyond baseline commercial vegetable growing area) avoided unless meets lawful nitrogen loss rate.
- Constrains commercial vegetable growing, as far as practicable, to a single nutrient allocation zone or sub-region.

What does PC7 mean for fruit growers?

Fruit growing is not captured in the commercial vegetable growing rules – this activity continues to fall under the existing ‘Farming Activity’ rules in the plan (see below).

HortNZ’s submission did seek a specific ‘low intensity horticulture’ pathway, including fruit. However, the scope for considering this was questioned by the Council. Also, in our expert evidence we reached the conclusion that this activity can be provided for within the existing plan framework.

Summary of notified PC7 rules and HortNZ’s evidence

HortNZ supports a specific regulatory framework for commercial vegetable growing and the requirement for a Farm Environment Plan, but seek greater clarity and equity in the provisions.

Notified provisions compared to the rules that HortNZ seeks

Notified PC7 rules for vegetable growing	HortNZ evidence	
	Rules HortNZ has sought (differences in red)	Explanation
Permitted Activity – Commercial vegetable growing that is 0.5ha or less	Permitted Activity – Commercial vegetable growing that is 5ha or less	Permitted activity = resource consent is not required. 5ha threshold aligns with national freshwater policy and is more effects-based (supported by modelling in our evidence).
Resource consent required as a Restricted Discretionary Activity for commercial vegetable growing >0.5ha, that: <ul style="list-style-type: none"> has a FEP is no greater than the baseline CVG area all land is in same sub region and Nutrient Allocation Zone 	Resource consent required as a Restricted Discretionary Activity for commercial vegetable growing > 5ha , that: <ul style="list-style-type: none"> With an FEP, no greater than baseline CVG area* All land located in same Nutrient Management Area <p>*baseline amended to 2019</p>	← <i>this rule applies to existing CVG that is not already consented.</i> HortNZ’s submission sought a Controlled Activity rule – however our expert evidence accepts Restricted Discretionary Activity status on the predication that the baseline CVG area is amended (from 2013, to 2019).
	A new rule - resource consent required as a Restricted Discretionary Activity for: New commercial vegetable growing, that is not constrained by needing to meet the lawful nitrogen loss rate. This would be capped at to 1000ha to meet food demands of forecasted population growth until 2030.	← <i>provides specific pathway to ensure certainty for domestic food supply.</i> Otherwise PC7 effectively prohibits the expansion of intensive or green rotations, if they can’t offset. Evidence to support no discernible impact on the water quality.
Resource consent required as a Discretionary Activity for new or expanded (beyond 2013 baseline) commercial vegetable growing <ul style="list-style-type: none"> An FEP must be prepared The activity must meet lawful N loss rate 	Resource consent required as a Discretionary Activity for all other new or expanded (beyond 2019 baseline) commercial vegetable growing: <ul style="list-style-type: none"> An FEP must be prepared The activity (including a CVG rotation) must meet lawful N loss rate 	← <i>enables unconstrained growth within the lawful nitrogen loss rate.</i> A flexible pathway for the extensive rotations that enables them to expand (because they have similar impacts to other farming) but have the need to rotate.
Resource consent required as a Non-Complying Activity if an FEP is not prepared	[No change sought to this rule]	
Prohibited activity (i.e. a resource consent cannot be applied for) for new CVG that exceeds lawful N loss rate	Non-complying New CVG that exceeds lawful N loss rate	Would enable a consent to be applied for (provides opportunity to demonstrate water quality impacts in a consent application).

HortNZ also seeks changes to the definitions of:

- **‘Commercial Vegetable Growing’** - to make sure it is clear what is included and that it excludes crops grown under cover.
- **‘Baseline Commercial Vegetable growing area’** – to reflect the situation when the plan was notified (otherwise growing operations that have moved since 2013 e.g. in response to the earthquakes, will not be able to access the ‘grand-parented’ load).

Overview of HortNZ's proposed rule framework

