

# Update on the Waikato District Plan Review

Waikato District | August 2020



The Waikato District Plan sets out **policy and rules that manage land use (including activities such as earthworks and vegetation clearance) and subdivision** in the Waikato District. The Council was required by the Resource Management Act to review the Operative Waikato District Plan.

The District Plan review is being undertaken in two stages.

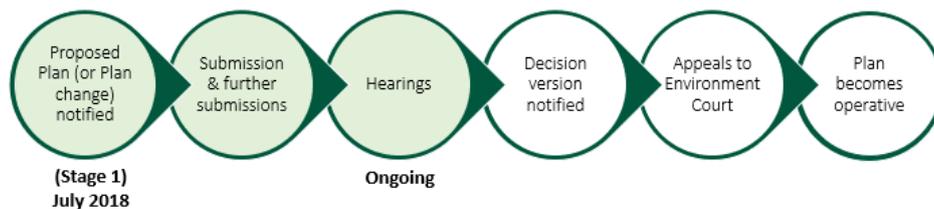
- **Stage 1** addresses all policies and rules, except those relating to natural hazards.
- **Stage 2** addresses natural hazards.

HortNZ has been involved in the development of the proposed plan, telling the horticulture story and promoting outcomes that enable growing.

## Stage 1

The Proposed Waikato District Plan was notified on 18 July 2018.

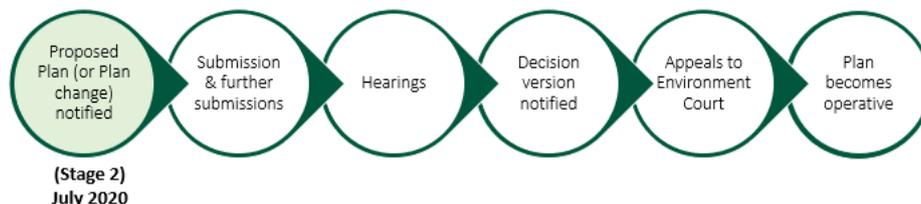
The review process for Stage 1 is currently at the hearings stage, where those who submitted on the proposed plan can talk to their submissions.



HortNZ's involvement has included comments at early draft stages, meetings with growers and discussions with product groups, making a submission on the Proposed Plan, making further submissions on changes other parties sought and presenting at hearings. Hearings on rural topics are still yet to occur. HortNZ will be presenting at those hearings.

## Stage 2

Stage 2 of the District Plan review, which proposes objectives, policies and rules to manage risks from natural hazards and climate change, was notified for feedback on 27<sup>th</sup> July 2020.



HortNZ provided input into the draft of Stage 2 in 2019. HortNZ will review the proposed Stage 2 and seek feedback from product groups and growers in order to prepare a submission. Submissions close 23<sup>rd</sup> September 2020.

What does it mean for growers?

Generally, **the rules in the Operative Waikato District Plan still apply**. If you need to get consent under the operative plan, your application will also need to consider the relevant objectives, policies and rules in the proposed plan.

The rules in the Proposed Waikato District Plan will apply when a decision is made on the plan provisions following hearings. However, there are some parts of the Stage 1 Proposed Waikato District Plan that have “immediate legal effect” – this means that even though the plan is proposed, these rules apply now. These are highlighted green in the proposed plan. The most relevant to horticulture include:

- Earthworks impacting:
  - Significant Natural Areas
  - Maori sites and areas of significance
  - Clearance of vegetation in Significant Natural Areas
- Building setbacks from waterbodies
- Subdivision impacting:
  - Land identified as High Class Soil
  - Significant Natural Areas, heritage items, Maori sites and areas of significance.

Please check the maps and rules in the Proposed Waikato District Plan to see if your activity is impacted by these rules. If so, you will need to apply for consent before undertaking the activity.

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**Current consented activities:** If you already have a resource consent for an activity, the proposed rules have no impact. If you need to renew your consent, the rules that have “immediate legal effect” identified above will apply. You need to check to see if your activity will need consent under those rules.

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**Current existing uses:** The RMA provides for existing uses to generally continue even if the rules change. You may continue to use land in a way that contravenes a rule in a district plan or proposed district plan, if:

- the activity was lawfully established before the rule became operative or the proposed plan was notified and
- the effects of the activity are the *‘same or similar in character, intensity, and scale’*.

This no longer applies if the activity has been discontinued for a period of more than 12 months.

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**New activities:** You will need to determine if your activity meets:

- The permitted activity standards for those rules that have “immediate legal effect” in the Proposed Waikato District Plan, and
- The permitted activity standards for all other rules in the Operative District Plan.

If it doesn't, you will need to apply for a resource consent. The Council will consider the relevant objectives and policies and how adverse effects of the activity can be managed or mitigated.

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## Overview of Stage 1 key changes for horticulture and HortNZ's submission

Topic	Proposed changes	HortNZ submission
<b>Removal of the Franklin section</b>	<p>The current Operative Waikato District Plan is split into two sections - Franklin and Waikato. The Franklin section covered the geographical area adopted into Waikato District Council jurisdiction following the creation of the Auckland Unitary Council. The rules from the Franklin District Plan were adopted directly into the Operative Waikato District Plan.</p> <p>The current plan review will remove the two sections so that the same set of rules applies to the whole Waikato District. Many of the rules from the Waikato section have been kept and applied across the whole district.</p>	<p>Support. One set of rules for the whole district is less complicated and confusing.</p>
<b>National Grid</b>	<p>Due to changes in legislation, the Plan is required to include provisions for the National Grid Lines. The Plan identifies a National Grid Yard and imposes controls on activities occurring in that yard.</p> <p>Non-habitable buildings and farming structures and crop protection structures/artificial crop protection structures are permitted as long as they meet specified height requirements.</p> <p>The following earthworks within the National Grid Yard are permitted:</p> <ul style="list-style-type: none"> <li>• <a href="#">Earthworks</a> undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;</li> <li>• Vertical holes not exceeding 500mm in diameter that:             <ol style="list-style-type: none"> <li>1. are more than 1.5m from the outer edge of the pole support structure or stay wire, or</li> <li>2. are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a tower support structure foundation.</li> </ol> </li> </ul>	<p>HortNZ sought a range of changes to remove duplication of national standards.</p>
<b>Artificial Crop Protection Structures</b>	<p>Artificial crop protection structures and crop protection structures that are more than 4m high are included in the definition of buildings. This means they must meet other standard controls for:</p> <ul style="list-style-type: none"> <li>• building setbacks from waterbodies and boundaries</li> <li>• Daylight admission</li> <li>• Building coverage</li> </ul>	<p>HortNZ sought changes to the definition of building so these rules do not apply.</p>

<b>Building coverage</b>	<p>In the current Franklin section, there is no restriction on building coverage of non-residential buildings in the rural zone. The proposed plan includes a district wide restriction of:</p> <p>(a)The total <a href="#">building coverage</a> must not exceed the larger of:</p> <ul style="list-style-type: none"> <li>(i)2% of the <a href="#">site</a> area; or</li> <li>(ii)500m<sup>2</sup>.</li> </ul> <p>This is not a sufficient area for ancillary buildings such as sheds or packhouses.</p>	<p>HortNZ has sought that there be no building coverage controls for buildings associated with rural production activities or rural industries.</p>
<b>Frost protection fans</b>	<p>These are permitted provided:</p> <ul style="list-style-type: none"> <li>• 10.5m height and max blade height 13.5m</li> <li>• 55dba from notational boundary of any site</li> </ul>	<p>Support</p>
<b>Hazardous substances</b>	<p>New rules are proposed that apply quantity trigger limits to different types of hazardous substances. Storage of hazardous substances above the specified limits require resource consent.</p> <p>New definition of hazardous facility that would encompass the whole farm.</p>	<p>HortNZ has sought a range of changes to remove duplication with national standards and ensure the whole farm is not defined as a hazardous facility.</p>
<b>Subdivision</b>	<p>Subdivision of high class soils is prohibited</p>	<p>HortNZ sought this be changed to non-complying and that the activity standards require proof that the land is no longer suitable for rural production.</p>
<b>Significant natural areas</b>	<p>New mapping overlay. Applies to clusters indigenous vegetation on private property. Additional rules apply relating to:</p> <ul style="list-style-type: none"> <li>• Buildings</li> <li>• Earthworks</li> <li>• Indigenous vegetation clearance (except clearance for pest maintenance is allowed)</li> </ul> <p><i>Note – although the plan is “proposed”, this rule applies now.</i></p>	<p>HortNZ has sought changes to the definition of earthworks to exclude ancillary farming earthworks.</p>
<b>Natural Character Area, Outstanding and High Natural Character Areas and Landscape Areas</b>	<p>New mapping overlays. Additional rules apply in these areas relating to:</p> <ul style="list-style-type: none"> <li>• Building setbacks</li> <li>• Indigenous vegetation</li> </ul>	
<b>Seasonal/farm worker accommodation</b>	<p>There is no specific provision for worker accommodation.</p>	<p>HortNZ has sought a new definition and provisions to allow for worker accommodation as a permitted activity with specific standards. The definition recognises the need to work off-site.</p>

## Overview of the key rules for horticulture

A summary of the rules that are most relevant to horticulture is provided in the table below (however, if you are undertaking an activity it is best to check the district plan on the Council's website).

To determine how the rules will apply:

1. Check the **planning maps** to determine which 'zone' the land you are growing on is in and if there are any applicable overlays (e.g. Significant Natural Areas) or special features.
2. Check the **District Plan Chapters for rules that apply for your zone and any applicable overlay rules.**

If the activity is listed as a Permitted Activity and meets the applicable permitted activity standards = resource consent is not required.

Resource consent is required if:

- If your activity does not meet the permitted activity standards
- If your activity is listed as a Controlled, Restricted Discretionary, or Discretionary Activity.

If you need assistance reading the plan or understanding whether you need consent, please contact the Waikato District Council or your local planning consultant. The Council are keen to assist with understanding and implementing the plan – click [here](#) for details on how to contact the planning and resource consents team.

## Summary of rules for Chapter 22 Rural Zone

Topic	Summary of permitted activity rule requirement for ACPS:	Summary of operative Franklin	Summary of operative Waikato
<b>Noise - general</b>	<p>Farming noise is permitted.</p> <p>Farming noise includes: “noise generated by agricultural vehicles, any aircraft used for aerial spraying, agricultural machinery or equipment and farm animals, including farm dogs. It does not include bird scaring devices and frost fans”.</p> <p>Bird scaring devices, frost fans and other noises must meet the following to be permitted:</p> <p>Noise measured at the <a href="#">notional boundary</a> on any other <a href="#">site</a> in the Rural Zone must not exceed:</p> <ul style="list-style-type: none"> <li>(i)50dB (LAeq), 7am to 7pm every day;</li> <li>(ii)45dB (LAeq), 7pm to 10pm every day;</li> <li>(iii)40dB (LAeq) and 65dB (LAm<sub>ax</sub>), 10pm to 7am the following day.</li> </ul>	No noise limits within the rural zone	Same as proposed
<b>Noise – frost protection fans</b>	must not exceed 55dB (L <sub>Aeq</sub> ) when measured at the <a href="#">notional boundary</a> on any other <a href="#">site</a>		No specific rule
<b>Earthworks</b>	<p>The <b>proposed definition of earthworks includes</b> ancillary farming earthworks such as <b><i>cultivation, land preparation (including establishment of sediment and erosion control measures), for planting and growing operations; harvesting of agricultural and horticultural crops (farming) and forests (forestry); and maintenance and construction of facilities typically associated with farming and forestry activities, including, but not limited to, farm/forestry tracks, roads and landings, stock races, silage pits, farm drains, farm effluent ponds, feeding pads, fencing and sediment control measures.</i></b></p> <p>These rules apply to all earthworks, unless in an overlay area (see plan for overlay standards).</p>	<p>Ancillary farming earthworks – permitted with no standards.</p> <p>Other earthworks unless in an overlay or national grid yard:</p> <ul style="list-style-type: none"> <li>• 250m<sup>3</sup> in any 12month period, 2000m<sup>2</sup> per site and a maximum depth of 1m</li> </ul>	<p>The planting of trees and cultivation of land are permitted with no earthwork controls.</p> <p>There are separate controls for earthworks involving clean and imported fill. This includes standards for volume (200m<sup>3</sup>) and depth (1m).</p>

	<p>a) <a href="#">Earthworks</a> within a <a href="#">site</a> must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>• Do not exceed a volume of more than 1000m<sup>3</sup> and an area of more than 2000m<sup>2</sup> over any single consecutive 12 month period;</li> <li>• The total depth of any excavation or filling does not exceed 3m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li>• <a href="#">Earthworks</a> are setback 1.5m from all <a href="#">boundaries</a>;</li> <li>• Areas exposed by <a href="#">earthworks</a> are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the <a href="#">earthworks</a>;</li> <li>• Sediment resulting from the <a href="#">earthworks</a> is retained on the <a href="#">site</a> through implementation and maintenance of erosion and sediment controls;</li> <li>• Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul> <p>There are separate standards for earthworks using imported or clean fill. These are similar to the above, but requiring a maximum 200m<sup>3</sup> and 1m depth.</p> <p>See the plan for earthworks rules within:</p> <ul style="list-style-type: none"> <li>• Maaori Sites and Maaori Areas Significance (these rules apply now)</li> <li>• Significant natural areas (these rules apply now)</li> <li>• Landscape and Natural Character Areas</li> </ul> <p>See Chapter 14 for earthworks involving infrastructure (irrigation) or earthworks within the national grid yard (shown on the maps).</p>	<ul style="list-style-type: none"> <li>• And standards relating to waterbody setbacks and vegetation.</li> </ul> <p>Consent is required for any earthworks impacting outstanding natural features listed in Part 5 of the plan.</p>	
<p><b>Frost protection fans</b></p>	<p>These are permitted provided they meet the following height standards:</p> <p>(a) The <a href="#">height</a> of the support structure for a frost fan must not exceed 10.5m; and</p> <p>(b) The fan blades must not rotate higher than 13.5m.</p>	<p>No specific rules</p>	<p>Permitted if:</p> <ul style="list-style-type: none"> <li>• The <a href="#">height</a> of the support structure for a frost fan must not exceed 10.5m; and</li> <li>• The fan blades must not rotate higher than 13.5m.</li> </ul>

			<ul style="list-style-type: none"> <li>• it does not protrude through the obstacle limitation surfaces defined in Chapter 30, <a href="#">Designation N1</a> (Hamilton Airport), and</li> <li>• it does not protrude through the obstacle limitation surfaces defined in <a href="#">Appendix K</a> (Te Kowhai Airfield), and</li> <li>• its height does not exceed 5m in the Battlefields View Shaft identified on the planning maps, and</li> <li>• its height does not exceed 7.5m in the <a href="#">Landscape Policy Area</a>, and</li> <li>• the highest part of the building is at least 20m vertically and horizontally from the ridge in a <a href="#">Ridgeline Policy Area</a>, and</li> <li>• the highest part of the building is below the 60m contour (Moturiki Datum) on the eastern side of the Hakarimata Range between Elgood and Parker Roads.</li> </ul>
<b>Artificial crop protection structures</b>	<p>Any artificial crop protection structure over 4m in height is a building and is therefore subject to standards controlling:</p> <ul style="list-style-type: none"> <li>• Height - 10m or 7.5m in a Significant Landscape Overlay</li> <li>• Daylight admission – must not protrude beyond the height control plane: measured at an angle of 37 degrees from 2.5m above ground level at the boundary.</li> <li>• Building coverage – 2% of the site area or 500m<sup>2</sup>, whichever is greater</li> <li>• Building setbacks from (please see the rules)</li> </ul>	<p>Excluded from definition of building. No specific rules</p>	<p>Defintion of building would include artificial crop protection structures. Therefore subject to standards controlling:</p> <ul style="list-style-type: none"> <li>• Height</li> <li>• Daylight admission</li> <li>• Building coverage</li> <li>• Building setbacks</li> </ul>

	<ul style="list-style-type: none"> <li>- Boundaries</li> <li>- Sensitive activities</li> <li>- Waterbodies</li> <li>- Environmental protection areas</li> </ul> <p>See Chapter 14.4 for artificial crop protection structures within the national grid yard.</p>		
<b>Building coverage</b>	2% of the site area or 500m <sup>2</sup> , whichever is greater	No building coverage controls in the rural area	2% of the site area of 500m <sup>2</sup> , whichever is greater.
<b>Indigenous vegetation clearance</b>	<p>Clearance <u>inside</u> a Significant Natural Area is permitted for the following purposes (note this rules apply now):</p> <ul style="list-style-type: none"> <li>• Removing vegetation that endangers human life or existing <a href="#">buildings</a> or structures;</li> <li>• Conservation fencing to exclude stock or pests;</li> <li>• Maintaining existing farm drains;</li> <li>• Maintaining existing tracks and fences;</li> <li>• Gathering of plants in accordance with Maori custom and values</li> </ul> <p>Clearance <u>outside</u> a Significant Natural area is permitted for the following purposes:</p> <ul style="list-style-type: none"> <li>• Removing vegetation that endangers human life or existing <a href="#">buildings</a> or structures;</li> <li>• Maintaining productive pasture through the removal of up to 1000m<sup>2</sup> per single consecutive 12 month period of manuka and/or kanuka that is more than 10m from a waterbody, and less than 4m in <a href="#">height</a>;</li> <li>• Maintaining existing tracks and fences;</li> <li>• Maintaining existing farm drains;</li> <li>• Conservation fencing to exclude stock or pests;</li> <li>• Gathering of plants in accordance with Maaori custom and values; or</li> <li>• A <a href="#">building platform</a> and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of <a href="#">indigenous vegetation</a>.</li> </ul>	Consent is required for any indigenous vegetation clearance impacting outstanding natural features listed in Part 5 of the plan.	<p>Differerent permitted standards for indigenous vegetation clearance and clearance within Landscape Policy Areas (identified on the maps).</p> <p>Similar to those proposed standards.</p>

<p><b>Hazardous substances</b></p>	<p>Similar to the operative Waikato section but does not use the Hazardous Facilities Screening Test.</p> <p>Proposed definition of hazardous facility would include the whole farm which result in all horticulture/rural production operations requiring consent.</p> <p>Note – a hearing was held for this topic early 2020. The decision has not been released but the panel have indicated a desire for less duplication with national standards than proposed. The panels comments can be found on council's <a href="#">website</a>.</p>	<p>No specific rules.</p>	<p>Hazardous substances are highly regulated. Rules are based the Hazardous Facilities Screening Test which is now outdated.</p>
<p><b>Worker accommodation</b></p>	<p>No specific reference to worker accommodation. Minor dwelling of 70m<sup>2</sup> is permitted (a minor dwelling is secondary to the main dwelling).</p>	<p>Provided for as a subsidiary building. No permitted activity. Needs consent.</p> <p>Provided for as restricted discretionary activity – up to 120m<sup>2</sup> excluding decks and garaging.</p> <p>Needs to comply with other development controls in the plan.</p>	<p>No specific provision.</p> <p>Permitted activities for:</p> <ul style="list-style-type: none"> <li>• 1 dwelling on sites less than 40ha</li> <li>• 2 dwellings on sites 40ha or more.</li> </ul>

### Summary of rules for Infrastructure

Proposed Chapter 14 includes rules relating to infrastructure and energy. The definition of infrastructure includes irrigation systems. Relevant sections include chapters 14.2 and 14.3. Chapter 14.4 also includes rules for activities within the National Grid Yard including earthworks and artificial crop protection structures.

Note in the Operative Waikato and Franklin Sections, network utilities include irrigation systems. Relevant rules are within each zone chapter (i.e. Chapter 25 Rural Zone).

Activity	Summary of proposed rule requirement	Summary of operative Franklin	Summary of operative Waikato
<b>New infrastructure</b>	Is permitted provided: <ul style="list-style-type: none"> <li>• Does not exceed 10m<sup>2</sup> in area above ground</li> <li>• Max 2.5m in height</li> <li>• Meets relevant conditions in section 14.3 of the proposed plan.</li> </ul>	No specific rules. However rules relating to “structures” may apply.	Construction, maintenance, operation is permitted provided: <ul style="list-style-type: none"> <li>• it is not an electricity line of 110kV or more, and</li> <li>• pipes are located underground</li> </ul>
<b>Operation, maintenance, repair and removal of existing infrastructure</b>	Permitted with no specific standards		No specific rules. Managed under the above rule.
<b>Minor upgrade of existing infrastructure</b>	Is permitted provided it meets the following: <ul style="list-style-type: none"> <li>• Within 5m of the existing alignment/configuration</li> <li>• Max 15% increase in height or diameter of any existing pole, support structure or above-ground pipe</li> <li>• Max 15% increase in area of any above-ground structure.</li> </ul>		No specific rule.
<b>Earthworks associated with infrastructure</b>	Permitted provided: <ul style="list-style-type: none"> <li>• Max volume of 2,500m<sup>3</sup></li> <li>• Max area of 2,500m<sup>2</sup></li> <li>• Within 10m of a watercourse, max volume 5m<sup>3</sup> and max area 5m<sup>2</sup></li> <li>• Exposed areas are to be recontoured and replanted within 6 months</li> <li>• No obstruction or diversion of stormwater overland flow or changes to stormwater drainage patterns on another site.</li> </ul>		No specific rules
<b>Artificial crop protection structures and fences within the national</b>	Permitted provided the following are met: <ul style="list-style-type: none"> <li>• Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all <a href="#">National Grid</a> transmission line operating conditions; and</li> <li>• Heights for fences               <ul style="list-style-type: none"> <li>- max 2.5m within 5m from the nearest National Grid pole or</li> <li>- max 6m from the nearest national grid tower</li> </ul> </li> <li>• Artificial crop protection structures between 8m and 12m from a single pole support structure and any associated guy wire (but not tower) must:</li> </ul>		

	<ul style="list-style-type: none"> <li>- Meet the requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 for separation distances from the conductor;</li> <li>- Be maximum 2.5m high;</li> <li>- Be removable or temporary, to allow a clear working space of at least 12 metres from the pole when necessary for maintenance and emergency repair purposes;</li> <li>- Allow all-weather access to the pole and a sufficient area for maintenance equipment, including a crane.</li> </ul>	
<p><b>Earthworks within the national grid yard</b></p>	<p>The following earthworks are permitted:</p> <ul style="list-style-type: none"> <li>• <b>Earthworks</b> undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.</li> <li>• Vertical holes not exceeding 500mm in diameter that: <ul style="list-style-type: none"> <li>- are more than 1.5m from the outer edge of the pole support structure or stay wire, or</li> <li>- are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a tower support structure foundation;</li> </ul> </li> <li>• <b>Earthworks</b> for which a dispensation has been granted by Transpower under New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</li> </ul>	