

**BEFORE THE HEARING COMMISSIONERS  
AT HAMILTON**

**IN THE MATTER** of the Resource Management Act 1991  
(**"the Act"**)

**AND**

**IN THE MATTER** of the hearing of submissions on The  
Proposed Waikato Regional Plan Change 1  
– Waikato and Waipa River Catchments:  
Block 2

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**PRIMARY STATEMENT OF EVIDENCE BY VANCE ANDREW  
HODGSON  
FOR HORTICULTURE NEW ZEALAND**

**3 MAY 2019**

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## **SUMMARY STATEMENT**

1. This planning evidence addresses the Horticulture New Zealand (“**HortNZ**”) submission, further submissions and the Waikato Regional Council’s (“**WRC**”) Section 42A Report responses to the submissions on the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (“**PC1**”).
2. The submission and this planning evidence address how HortNZ considers that an alternative planning provision would better give effect to, be not inconsistent with, or have regard to (as the case may be) the various relevant planning documents and further support a robust regional plan.
3. The HortNZ submission and evidence clarifies the regional and national significance of the horticultural sector in the Waikato for food production, the area of activity, number of operators and the relative contaminant contribution.
4. In my opinion, PC1 rightly provides a tailored planning response to ensure domestic food supply is secured for current and future generations. This is reflected in the as notified controlled activity status for existing commercial vegetable production that protects the existing footprint of activity and guarantees consent approval.
5. Notwithstanding this, I consider the framework of PC1 could be improved by explicitly recognising the food production values associated with horticulture and other methods could be provided that enable the continuation of existing horticultural activity and provide for growth.

## **QUALIFICATIONS AND EXPERIENCE**

6. My full name is Vance Andrew Hodgson. I am a director of Hodgson Planning Consultants Ltd, a resource management consultancy based in Waiuku. I have been employed in resource management related positions in local government and the private sector since 1994 and have been in private practice for 14 years. I hold a Bachelor of Resource and Environmental Planning (Hons) degree from Massey University.
7. I have worked in the public sector, where I was employed in student, assistant and senior policy planning roles by the Franklin District Council. I have provided resource management consultancy services to various district and regional councils. The scope of work for the public sector has been broad, covering plan change processes, submissions to national standards/regulations/policy statements and regulatory matters, mediation and appeals.

8. I have worked in geographic information system positions in the United Kingdom and worked for CKL Surveying and Planning Limited in Hamilton.
9. In private practice I regularly advise a range of private clients on statutory planning documents and prepare land use, subdivision, coastal permit, water permit and discharge permit resource consent applications. I have experience in resource consent applications, hearings and appeals on a range of activities, particularly for activities in the rural environment.
10. I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

#### **Experience in Freshwater Management**

11. Living and working in the rural environment of South Auckland / North Waikato, I have had a continuous association with the rural production sector and in particular the horticultural industry. From 2012 I have been providing resource management advice to HortNZ on policy matters across New Zealand.
12. That experience has included involvement in freshwater quantity and quality management plan change processes across New Zealand. My most recent experience is ongoing participation in a working group comprised of staff from the Canterbury Regional Council, HortNZ and growers who are investigating and testing a proposed method to resolve rotational horticulture regulatory constraints that have become apparent through implementation of sub-catchment plans under the Canterbury Land and Water Regional Plan.

#### **SCOPE OF EVIDENCE**

13. This evidence provides a planning assessment of those provisions on which HortNZ submitted and addresses the Section 42A Report prepared by WRC.
14. The planning framework is well described in both the Section 32 Report and the Section 42A Report provided by the WRC. I generally agree with the analysis.
15. The Section 42A Report provides a format within which submissions have been analysed. The topic covered in my evidence addresses - Part C1 Diffuse Discharge Management.

16. There are some practical difficulties in responding to the Section 42A report. As with Block 1, the policies and methods that address the submissions of HortNZ have been deferred to Block 3, in particular, proposed Policy 3 and Rule 3.11.5.5. These rules and policies primarily relate to Commercial Vegetable Production. Given that the policies and methods have not been explicitly covered at this stage, much of my evidence has to be provisional.

## **PART C1 DIFFUSE DISCHARGE MANAGEMENT**

### **Policy 1**

17. Paragraph 213 of the Section 42A Report states that *“Policy 1, Policy 2 and the rule framework are the core provisions that PC1 utilises to manage diffuse discharges of N, P, sediment and microbial pathogens.”*
18. I had not read a policy hierarchy in PC1, rather I had seen the need to read the policy framework as a whole. Notwithstanding this, Policy 1 is a cornerstone Policy that directs the course of action to achieve or implement the objective (i.e. the path to be followed to achieve a certain, specified, environmental outcome).
19. The Section 42A Report suggests substantive changes to Policy 1 with key recommendations set out in paragraph 210 as follows:
- (i) *Shifting the focus of the rules from management of N, to management of all four contaminants – a clear focus on maintaining or reducing levels of all four contaminants over time is recommended.*
  - (ii) *Consolidating relevant parts of Policy 1, Policy 2 and Policy 6 into a revised Policy 1 that provides direction for all farming activities.*
  - (iii) *Changing to a simpler rule set that firstly separates the hybrid-style (land use and discharge) rules of PC1 into separate rules and secondly has a clear ‘cascade’ from permitted through to noncomplying, depending on the ability to meet clear criteria.*
  - (iv) *Acknowledging that there are some activities that have low levels of losses of the four contaminants – these are difficult to define in a rule framework, but might be able to be described or thresholds set after considering the evidence.*
  - (v) *Maintaining the need to collect and provide information to the WRC, including outputs from Overseer or other models.*

- (vi) *Recognising that the implication of reduced reliance on a simple threshold, such as a NRP due to concerns about Overseer accuracy, has implications for the rules such that more discretion and assessment of individual applications needs to be made against all four contaminants, along with greater reliance on the quality, implementation and auditing of FEPs.*
- (vii) *Not making specific recommendations on changing the timeframes for implementation, given uncertainties over when the relevant rules will be made operative.*

20. I largely agree with the recommendations, but I temper that support because I am yet to see the recommended approach for commercial vegetable production.

21. I now turn to review the key recommendations.

***Shifting the focus of the rules from management of N, to management of all four contaminants – a clear focus on maintaining or reducing levels of all four contaminants over time is recommended.***

22. I agree with this recommendation. Real and enduring reductions of all four contaminants are required within the catchment to achieve the Objectives of PC1 and the Vision and Strategy. We must have a plan that: takes a whole of catchment response to discharge management; that recognises that not all activities are equal in the nature or effect of their discharges; and provides for individual and collective actions.

***Consolidating relevant parts of Policy 1, Policy 2 and Policy 6 into a revised Policy 1 that provides direction for all farming activities.***

23. I support the consolidation of Policies 1, 2, and 6 into a revised Policy 1. Again, this is tempered by where commercial vegetable production might fit in the revised framework.

24. As set out in the HortNZ evidence of Michelle Sands, maintaining the extent and volume of existing commercial vegetable production is not sufficient to meet future food demand for the Waikato Region, or wider New Zealand. Ms Gillian Holmes identifies that the associated increase of contaminants as a result of increased commercial vegetable production is negligible and can be managed in a means that is still consistent with the Vision and Strategy and the objectives and policies of PC1.

25. I note here that I agree with the statement made by Mr Chris Keenan, for HortNZ, that increases at catchment scale of any

contaminant are difficult to justify, from a higher order policy perspective. However, like Mr Keenan I do not agree that the same logic applies to land use change at the property or enterprise level. In other words, an application requesting an increase in nitrogen discharge made at the property or enterprise level would not necessarily result in any material increase in catchment scale discharges.

26. This is something that I consider should be able to be considered at the consenting stage for new commercial vegetable production. As discussed in the evidence of Ms Holmes, Ms Sands and Mr Keenan, commercial vegetable production in the Waikato is small footprint, a small contributor to the overall contaminant catchment load and is an activity with core values associated with domestic food production for a growing population. I do not see a conflict with the Vision and Strategy or NPSFM if reductions in all contaminants at a catchment scale are still achieved.
27. Aligning this with the recommended changes to Policy 1, is a matter we will return to in Block 3. In considering a tailored approach to commercial vegetable production. it may be that the outcome is that that activity is entirely covered by Policy 3.
28. I have previously expressed support for the standalone policy approach that provides a tailored response to address discharges from commercial vegetable production. The response to new commercial vegetable production and the practical peculiarities of lease arrangements for the existing activity footprint are not resolved and await Block 3 Section 42A Report and evidence.

***Changing to a simpler rule set that firstly separates the hybrid-style (land use and discharge) rules of PC1 into separate rules and secondly has a clear 'cascade' from permitted through to noncomplying, depending on the ability to meet clear criteria.***

29. The need to separate the hybrid-style (land use and discharge) rules of PC1 was a matter raised in the submission of HortNZ.
30. I had struggled to follow the hybrid rule approach as notified. Like Council Officers I had also seen the disjoint with the PC1 approach and that that applies in the Taupo catchment under the Waikato Regional Plan, where an authorisation rule for discharges (pursuant to section 15) associated with land use activities (pursuant to section 9) exists.
31. The same approach as Taupo is applied in the Canterbury Land and Water Regional Plan where catch-all section 15 discharge consent rules are as follows:

*5.63 The discharge of nutrients onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene s15(1) of the RMA is a permitted activity, provided the following conditions are met:*

- i. The land use activity associated with the discharge is authorised under Rules {Link,29872,5.41} to 5.59; or*
- ii. The land use activity associated with the discharge is authorised under Rules 10.1, 10.2, 11.1 or 11.1A of the Hurunui-Waiau River Regional Plan.*

*5.64 The discharge of nutrients onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene s15(1) of the RMA and does not meet condition 1 of Rules 5.62 or conditions 1 or 2 of 5.63 is a non-complying activity.*

32. The Officers' comment that applying this differentiation in PC1 means that the resource consent authorising land use, and any associated elements including the conditions and a requirement for a FEP, 'attach to the land'. As such, these kinds of consents are not able to be transferred from site-to-site.
33. I understand that this is an issue that has arisen in ECAN because it affects farming enterprises (including horticulture) that move across land parcels as part of a rotational cropping/production system. ECAN have attempted to provide for this by requiring the consent holder to have defined a 'command area' of activity. The consented command area "affixes to land", but within that large (command) area, the consented activity is limited to specific properties which can be added or removed as long as the defined area of activity (by hectares) is not exceeded.
34. HortNZ will present further evidence on this matter at the Block 3 hearings. While I agree with Officers that the consent is not transferable it is my view that there needs to be flexibility to reflect practical issues associated with lease arrangements. An example being a lessor may have a 10-hectare parcel of Class 1-3 land suitable for commercial vegetable production. If the lessee is restricted to only a 5-hectare area to remain within a land area limit, the lessor is unlikely to agree to terms only for the 5-hectare.
35. I agree with a controlled activity status and land area limit for existing commercial vegetable production. However, a hard limit based on the existing footprint of activity that does not provide for minor 'overs and unders' is not workable. The 'command area' approach taken by ECAN appears to be an appropriate response. HortNZ will work on the detail of this for Block 3.

***Acknowledging that there are some activities that have low levels of losses of the four contaminants – these are difficult to define in a rule framework, but might be able to be described or thresholds set after considering the evidence.***

36. I understand from the evidence of HortNZ that fruit production in the Waikato is small in extent and an activity that has low levels of losses of the four contaminants. How these activities fit into the permitted activity framework is not clear.
37. Firstly, I note that to be a permitted activity (Rule 3.11.5.2) these activities cannot be part of a framing enterprise. I am not clear on the reason for this restriction in regard to orchards. I note that while there are not many orchards in the Waikato it is not uncommon for an orchard to be comprised of more than one parcel of land and sometimes not contiguous. I understand that matters concerning enterprises will be addressed in Block 3.
38. Secondly, PC1 is unclear as to whether an orchard over 20ha would be required to submit a Nitrogen Reference Point, noting this appears to only relate to activities with stock under 3.11.5.2(c). I understand the Overseer limitations associated with modelling commercial vegetable production are also apparent for fruit production. That being the case, despite fruit production having low levels of losses of the four contaminants this would appear to be a restricted discretionary activity and I question the efficiency and effectiveness of this method for these activities.
39. I support the policy direction provided in Policy 1(a) whereby activities with a low level of contaminant discharge to water bodies are enabled.

***Maintaining the need to collect and provide information to the WRC, including outputs from Overseer or other models.***

40. I see this matter as a key outcome to be achieved by PC1. More information is required to establish and operate a freshwater quality accounting system.

***Recognising that the implication of reduced reliance on a simple threshold, such as a NRP due to concerns about Overseer accuracy, has implications for the rules such that more discretion and assessment of individual applications needs to be made against all four contaminants, along with greater reliance on the quality, implementation and auditing of FEPs.***

41. I agree with the Officers' determinations on the accuracy and appropriateness of Overseer in regulation and the need to reduce reliance on a simple threshold like NRP. A NRP remains relevant

when used as part of a decision support tool to determine appropriate management practices and to track trends.

42. As described in my Block 1 evidence, I have ongoing participation in a working group comprised of staff from the Canterbury Regional Council, HortNZ and growers who are investigating and testing a proposed method to resolve rotational horticulture regulatory constraints that have become apparent through implementation of the operative Canterbury Land and Water Regional Plan. In this process it has also become clear that for rotational commercial vegetable production, the NRP as a limit is unworkable and should be moved to a consent information requirement.

***Not making specific recommendations on changing the timeframes for implementation, given uncertainties over when the relevant rules will be made operative.***

43. There are challenges here which are well described in the Section 42A. PC1 is intended to manage the first stage of the 80 year time-frame, to put in place and implement the range of actions in a 10 year period which will be required to achieve 10 percent of the required change between current water quality and long term water quality in 80 years.
44. Aligning these timeframes with a plan change process is difficult. Notwithstanding this, I understand that there are no particular constraints for moving the commercial vegetable production sector into a consenting framework when relevant dates are confirmed.

### **Policy 2 and Farm Environment Plans**

45. Like other freshwater quality regional plans around New Zealand, Farm Environment Plans are a key component to contaminant management and reductions.
46. Damien Farrelly for HortNZ provides more specific evidence on the application and administration of farm environment plans from an industry perspective.
47. In terms of Policy 2, the Officers provide five key recommendations through paragraph 317 of the Section 42A Report. These are:
- (i) *Shifting the focus of Policy 2 to be a specific policy on FEPs.*
  - (ii) *Maintaining, and strengthening, FEPs as a core methodology in PC1 to deliver reductions across all of the four contaminants.*

- (iii) *Identifying that the more widely recognised 'good farming practices' framework is an important foundation for FEPs, in terms of guiding their development, providing a more outcomes focused approach, and checking on implementation.*
- (iv) *Requiring audits of FEPs and their implementation to give confidence to the Council, the community and farmers that improvements in farm practices are being made.*
- (v) *Not making any recommendations on Schedule 1 at this time, so that it can be redrafted by experts.*

48. Reviewing the key recommendations, I make the following comments:

***Shifting the focus of Policy 2 to be a specific policy on FEPs.***

49. As noted above I support the consolidation of the Policy 1, 2 and 6 proposed by Officers, tempered with how commercial vegetable production is addressed. Matters concerning the NRP and stock exclusion sit better in Policy 1. The policy should be focused on providing clarity and direction for FEP's.

50. I note that Policy 3 that provides the tailored approach for CVP is to be addressed in the Block 3 hearing. A specific policy needs to remain for these activities that do not fit within the typical policy and method framework.

***Identifying that the more widely recognised 'good farming practices' framework is an important foundation for FEPs, in terms of guiding their development, providing a more outcomes focused approach, and checking on implementation.***

***Requiring audits of FEPs and their implementation to give confidence to the Council, the community and farmers that improvements in farm practices are being made.***

51. The matters are covered in the evidence of Damien Farrelly where the role of NZGAP in this process is clarified.

***Not making any recommendations on Schedule 1 at this time, so that it can be redrafted by experts.***

52. This is again a matter HortNZ will cover in the Block 3 hearing but for now I highlight that HortNZ have suggested a new schedule 1B, prepared for commercial vegetable cropping systems to recognise and address the unique issues associated with this activity.

### **Policy 3A**

53. In paragraph 836, Officers have recommend deleting Method 3.11.4.2 and instead including new Policy 3A.
54. I support the creation of Policy 3A proposed by the Officers that then sets out the purpose and scope of CISs to provide a clearer policy framework for the approval and use of CISs in the rest of PC1.

### **Policy 4**

55. As previously noted, I support consolidating relevant parts of Policy 1, Policy 2 and Policy 6 into a revised Policy 1 that provides direction for all farming activities. I consider this a more robust policy and an approach that removes overlaps and duplication across the notified PC1 framework. In this regard I also support the Officers' recommendation in paragraph 553 of the Section 42A Report that suggests there is duplication between the first part of Policy 4 and Policy 1, such that it is appropriate to delete this part of the policy and rely solely on Policy 1. Enablement of land use activities that fit the criteria for low level of contaminants being discharged is achieved through Policy 1(a).

### **Policy 5**

56. PC1 states that an 80 year timeframe is required to achieve the water quality objectives of the Vision and Strategy due to the extent of change required to restore and protect water quality.
57. As notified Policy 5 identified that the course of action to do so was a staged approach to minimise social disruption and allow for innovation and new practice to develop while making a start to contaminate reductions and preparing for future reductions.
58. I support the Officers' recommended redrafting of Policy 5. The changes provide alignment with Objective 4 and importantly introduce matters of economic and cultural wellbeing. Importantly I also note that the staged approach enables time for developing the tools and methods to determine a discharge allocation system.

### **Policy 8**

59. Officers consider that in addition to the prioritisation of areas set out in Table 3.11-2, prioritising lake catchments, commercial vegetable production and dairy farming would assist with achieving necessary reductions in contaminant losses in the shortest time.
60. The commercial vegetable reduction refence remains 'greyed out' for consideration in Block 3 but I note for now that there is a need

for clarity here. I am not sure if the recommendation is based on an opinion that commercial vegetable production can mobilise and implement actions quicker or that commercial vegetable production is the worst polluter which based on the Jacobs 2017 Report 'Healthy Rivers Plan Change Technical Support for Horticulture New Zealand's Submission', is not the case.

**Vance Hodgson**  
**3 May 2019**