

BEFORE AN INDEPENDENT HEARINGS PANEL

UNDER

of the Resource Management Act
1991 ("**the Act**")

IN THE MATTER

of the hearing of submissions and further
submissions on The Proposed Waikato
District Plan (Stage 1)

Hearing 2: Plan Structure and All of Plan

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

23 SEPTEMBER 2019

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SUMMARY STATEMENT

1. This planning evidence addresses the further submissions made by Horticulture New Zealand (“**HortNZ**”) on submissions considered in Hearing 2; Plan Structure and All of Plan.
2. HortNZ’s further submissions FS1168.191 and FS1168.192 opposed a submission from the Waikato Regional Council (“**WRC**”) seeking the imposition of additional permitted activity standards for earthworks. WRC had sought a minimum 5m setback distance from any waterbody or overland flow path (S81.3) and a shorter period of time (2 months) for earthworks to be revegetated after commencement to achieve 80% groundcover (S81.4).
3. HortNZ’s further submission FS1168.193 opposed a submission from the Waikato Regional Council seeking the imposition of additional permitted activity standards for buildings (81.9). WRC had sought a minimum 10m building setback from the banks of a perennial or intermittent stream.
4. I have read the section 42A report on submissions and further submissions for Hearing 2, prepared by Mr Grant Eccles dated 09 September 2019. I agree with Mr Eccles assessment and recommendation to reject the submissions.
5. I have also read the statement of evidence provided by Mr Andrew Barber (Agrilink) for Hort NZ on these matters. Mr Barber further sets out issues associated with defined setbacks relative to commercial vegetable production activities and why a site specific/paddock-based response is necessary.
6. HortNZ will appear in front of the Independent Hearings Panel at a later date to discuss specific definitions and standards relating to land disturbance associated with rural production activities. At present there is some confusion in the plan structure as to whether

Ancillary Rural Earthworks (encompassing cultivation, crop harvesting, erosion and sediment controls) would be subject to the standards of concern to WRC. HortNZ flags a need to be mindful of this issue as the hearings progress.

QUALIFICATIONS AND EXPERIENCE

7. 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 16 years. I hold a Bachelor of Resource and Environmental Planning (Hons) degree from Massey University.
8. 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.
9. I have worked in geographic information system positions in the United Kingdom and worked for CKL Surveying and Planning Limited in Hamilton.
10. 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.

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. I provide the same service to NZPork.
12. 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.

SCOPE OF EVIDENCE

13. This evidence provides a planning assessment of those provisions on which HortNZ submitted and addresses the Section 42A Report provided by the Waikato District Council ("**WDC**").
14. The planning framework is well described in both the Section 32 Report and the Section 42A Report provided by the WDC. I generally agree with the analysis.
15. Given the general agreement I do not repeat the analysis of the applicability of those planning instruments or the compliance of the Proposed Waikato District Plan ("**PWDP**") with those instruments. Rather this evidence sets out where I depart from the views expressed in the Section 32 or Section 42A Reports, or where I consider 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 documents.

THE HORTNZ FURTHER SUBMISSIONS

FS1168.192

16. HortNZ's further submissions FS1168.191 and FS1168.192 opposed a submission from the Waikato Regional Council ("**WRC**") seeking the imposition of additional permitted activity standards for earthworks. WRC had sought a minimum 5m setback distance from any waterbody or overland flow path (S81.3) and a shorter period of time (2 months) for earthworks to be revegetated after commencement to achieve 80% groundcover (S81.4). The submitter stating that these amendments reflect a more precautionary approach as required by the Vision and Strategy.
17. HortNZ's primary concerns with the standards proposed are potential impacts on Ancillary Farming Earthworks in the Rural Zone (Chapter 22). HortNZ had interpreted that the intent of the PWDP was to exclude Ancillary Farming Earthworks from the earthworks standards set out in Rule 22.2.3.1 (P2). However, this is not clear in the PWDP and if these conditions do apply then the activities encompassed in the Ancillary Farming Earthworks definition would be constrained by inefficient methods (as notified and as proposed to be changed by WRC).
18. The commercial vegetable production sector needs a consistent approach from the District and Regional Councils to avoid confusion, and unnecessary regulatory duplication and cost. The standards proposed by the submitter and the current PWDC framework do not deliver this clarity.
19. Notably the plan defines Ancillary Rural Earthworks as follows:

Ancillary Rural Earthworks

Means any earthworks or disturbance of soil associated with:

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.

20. The definition is an extension of the permitted activity supported definition from the legacy Waikato District Plan (Franklin Section).
21. The PWDP then provides the following activity listings in the Rural Zone:

Rule 22.2.3.1 Earthworks – General

P1

Earthworks for:

(i) Ancillary rural earthworks;

(ii) Farm quarry where the volume of aggregate does not exceed 1000m³ per single consecutive 12 month period;

(iii) Construction and/or maintenance of tracks, fences or drains;

(iv) A building platform for a residential activity, including accessory buildings.

22. Conditions are then specified for all earthworks as follows:

P2

(a) Earthworks within a site must meet all of the following conditions:

(i) Do not exceed a volume of more than 1000m³ and an area of more than 2000m² over any single consecutive 12 month period;

(ii) 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);

(iii) Earthworks are setback 1.5m from all boundaries;

(iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;

(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;

(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.

23. The conditions inadvertently appear to apply to all earthwork activities including Ancillary Rural Earthworks. Clearly this is not workable for the rural production activities encompassed in the definition of Ancillary Rural Earthworks. For example, the P2(a)(i) volume (1000m³) and area (2000m²) controls would not support cultivation.
24. Through submission, HortNZ have sought that Ancillary Rural Earthworks be excluded from the definition of Earthworks. This is a matter to be considered at a future hearing, however a better amendment may be made to Rule 22.2.3.1 (P2) to exclude Ancillary Rural Earthworks from the conditions set out in P2.
25. In regard to introducing a minimum 5m setback distance from any waterbody or overland flow path (and assuming this does not apply to Ancillary Rural Earthworks), I agree with Mr Eccles that rather than increase the setback distance for earthworks from a

waterway, open drain or overland flow path (which have not been quantified in area, may not be practicable in all cases, and for which no cost/benefit analysis has been provided) it would be more effective to amend the existing permitted activity earthworks standard that requires “sediment resulting from the earthworks is retained on the site...” to also include a requirement for the sediment to not enter waterways, open drains or overland flow paths.”

26. I am also aware of the substantive controls in the Waikato Regional Plan for soil disturbance in high risk erosion areas and soil cultivation set out in Chapter 5 Land and Soil Module. Furthermore, Plan Change 1 to the regional plan proposes further controls. It is not clear from the submission what the 5m setback would add to the layers of controls already in place at a district and regional level.
27. The request of the submitter for a District Plan standard for earthworks to be revegetated after commencement to achieve 80% groundcover is, as set out by Mr Andrew Barber, unachievable for commercial vegetable production. The Horticulture sector uses the Hort NZ Erosion and Sediment Controls Guidelines for Vegetable Production, Farm Environment Plans and auditing systems like NZGAP to direct sediment management. I do not see this standard is relevant to Ancillary Rural Earthworks.

FS1168.193

28. HortNZ’s further submission FS1168.193 opposed a submission from the Waikato Regional Council seeking the imposition of additional permitted activity standards for buildings (81.9). WRC had sought a minimum 10m building setback from the banks of a perennial or intermittent stream to apply in all zones.

29. In terms of the Rural Zone, the PWDP already sets out building setbacks from waterbodies under Rule 22.3.7.5 as follows:

Rule 22.3.7.5 Building Setbacks – water bodies

P1

(a) Any building must be set back a minimum of:

(i) 32m from the margin of any;

A. Lake; and

B. Wetland;

(ii) 23m from the bank of any river (other than the Waikato River and Waipa River);

(iii) 28m from the banks of the Waikato River and Waipa River; and

(iv) 23m from me high water springs.

30. No definition of *river* is provided in the PWDP and I assume that of Part 1 of the Resource Management Act 1991 applies.

river means a continually or intermittently flowing body of fresh water...

31. I understand that the primary issue for HortNZ is not the depth of setback for buildings but rather the definition of buildings and ensuring the buildings and structures associated with primary production that have a functional need to locate in these areas are accommodated. A matter addressed by HortNZ in later hearings.

Vance Hodgson

September 2019