

**BEFORE THE HEARING COMMISSIONERS
IN WAIKATO DISTRICT**

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

AND

IN THE MATTER of the Proposed Waikato District Plan (Stage 1) Hearing 21A Natural Environments – Indigenous Vegetation and Habitats s42A Report

**STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE
FOR HORTICULTURE NEW ZEALAND
29 OCTOBER 2020**

1. QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Lynette Pearl Wharfe. I am a planning consultant with The AgriBusiness Group. I have a BA in Social Sciences and post graduate papers in Environmental Studies, including Environmental Law, Resource Economics and Resource Management.
- 1.2 I am an accredited commissioner under the Making Good Decisions programme with Ministry for the Environment.
- 1.3 I have been a consultant with The AgriBusiness Group since 2002. The Agribusiness Group was established in 2001 to help build business capability in the primary sector.
- 1.4 I have spent over 18 years as a consultant, primarily to the agricultural industry and rural sector, specialising in resource management, environmental issues, and environmental education and facilitation, including 18 years of providing advice to Horticulture New Zealand (“**HortNZ**”) and its precursor organisations, NZ Vegetable and Potato Growers Federation, NZ Fruitgrowers Federation.
- 1.5 As part of providing advice to HortNZ for submissions and plans across the country I have been involved in development of Regional Policy Statements, Regional Plans and District Plans, including omnibus plans such as the Auckland Unitary Plan and the Horizons One Plan and district plans in Whakatane, Opotiki and Hastings so am familiar with the range of matters to be addressed in the Proposed Waikato District Plan (“**PWDP**”).
- 1.6 I have been involved as a consultant to HortNZ contributing to submissions and further submissions on the Proposed Waikato District Plan.
- 1.7 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 in Appendix 1. 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.

2. SCOPE OF EVIDENCE

- 2.1 This evidence provides a planning assessment of those provisions on which HortNZ submitted which are addressed in Hearing 21A – Natural Environments – Indigenous Vegetation and Habitats.

- 2.2 In undertaking this assessment I have considered:
- (a) The Section 42A Hearings Report for Hearing 21A
 - (b) The s32 Reports for PWDP
- 3. MY UNDERSTANDING OF HORTICULTURE NEW ZEALAND'S SUBMISSIONS**
- 3.1 HortNZ made submissions and further submission on the PWDP because horticulture is a key activity within the Waikato District.
- 3.2 The submissions assessed as part of Hearing 21A are in respect of provisions for biosecurity and clearance of vegetation in the event of an incursion of an unwanted organism under the Biosecurity Act 1993.
- 4. BACKGROUND**
- 4.1 In my evidence on the Rural Chapter I addressed disposing of material infected by unwanted organisms that needed to be buried as part of addressing the biosecurity risk. I attach this extract in Appendix 2 of this evidence as the principles are also relevant to vegetation clearance.
- 4.2 In the event of a biosecurity incursion of an unwanted organism there is the need to be able to respond rapidly to manage spread. Vegetation removal, burial, burning, spraying of material are methods that may be used. Therefore it is important that the Plan adequately provides for these activities to be undertaken.
- 4.3 It became evident during the PSA incursion in the kiwifruit industry that regional and district plans can unintentionally be regulatory hurdles to a rapid response to an incursion through provisions such as limitation of earthworks for burying infected material or clearance of infected vegetation, including in riparian areas.
- 4.4 For instance there were wilding kiwifruit vines in riparian areas which were infected with PSA and needed to be removed to prevent further spread of the disease, but vegetation clearance provisions limited such clearance.
- 4.5 An incursion of an unwanted organism could also affect vegetation within an SNA and would need to be removed to restrict the spread.
- 4.6 If an incursion of an unwanted organism was unable to be appropriately managed due to regulatory barriers in the plan it could have significant impact on the region and the rural economy.

4.7 The effects of a biosecurity incursion are not only on rural production but such incursions can also affect biodiversity and indigenous flora and fauna so the consideration is wider than just on rural production.

4.8 Therefore, HortNZ has sought provisions relating to vegetation clearance for biosecurity purposes that are addressed in Hearing 21A.

5. DEFINITION VEGETATION CLEARANCE

5.1 The definition of vegetation clearance as proposed is:

Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means of indigenous vegetation, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing.

5.2 HortNZ made a submission (419.140) that sought a change to the definition of vegetation clearance, partly to restructure and particularly to add the following exclusion:

vegetation that is infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical officer or an emergency declared by the Minister under the Biosecurity Act 1993.

5.3 This submission is addressed at Para 697 of the s42A Report.

5.4 The s42A Report rejects submissions to amend the definition as the writer is of the opinion that:

the purpose of the definition is to simply describe the activity and not impose standards. Standards are best imposed in a rule or condition of consent and not on the activity itself. (Para 696).

5.5 The writer does not consider the particular nature of the submission point and what it is seeking. Given that submission points on the rules are also rejected it means that neither the rules or the definition provide the relief sought.

5.6 The definition already includes some exclusions – routine cultivation or grazing. What the HortNZ submission sought was to add to the exclusions – not to include standards.

5.7 Including exclusions in the definition describes the activity by being clear and stating what it does not include.

5.8 Therefore I do not concur with the s42A Report assessment and consider that adding the exclusion as sought by HortNZ is appropriate within a definition.

6. RULE 22.2.7 P1 INDIGENOUS VEGETATION CLEARANCE INSIDE A SNA – RURAL ZONE

6.1 HortNZ (419.23) sought that a new activity be added to Rule 22.2.7 P1 to provide for clearance of vegetation for pest management and biosecurity works.

6.2 The submission is addressed in the s42a Report at Para 450 along with a similar submission by Balle Bros Group Ltd.

6.3 HortNZ sought provision for rapid response to address biosecurity concerns be provided through an amendment to the definition of vegetation clearance. If that submission point is rejected, it is sought that an additional standard be included in the relevant rules to allow for a biosecurity response.

6.4 There are a number of horticultural cropping sites containing, or adjoining SNA's. If an unwanted organism established within an SNA and was unable to be removed it could pose a risk to the production of fruit and vegetables for human consumption.

6.5 The s42a Report is recommending the addition of 'conservation activities' to Rule 22.2.7P1 and considers that the definition of conservation activities would encompass the activities being sought by the submissions for pest management and biosecurity works.

6.6 The definition of conservation activities means:

6.7 *Activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the establishment, maintenance or upgrading of public walking or cycling tracks, interpretive and directional signs, accessory buildings including those for tourism, interpretation or education purposes and provision of access for plant or animal pest management.*

6.8 The purpose of conservation activities is clearly for the benefit of indigenous biodiversity. While removal of plants infected with unwanted organisms may benefit indigenous biodiversity there may also need to be removal that is to stop the spread of an unwanted organism rather than an explicit benefit to indigenous biodiversity.

- 6.9 Therefore I do not consider that the addition of conservation activities is sufficient to address the issue of removal for biosecurity purposes as sought by HortNZ.
- 6.10 Therefore I support the addition of clearance of vegetation for pest management and biosecurity works to Rule 22.2.7 P1 or alternatively an amendment to the definition of vegetation clearance to specifically provide for removal of material infected by unwanted organisms.

**7. RULE 22.2.8 P1 INDIGENOUS VEGETATION CLEARANCE
OUTSIDE A SNA – RURAL AREA**

- 7.1 HortNZ made a submission on Rule 22.2.8 P1 similar to 22.2.7 P1. However this submission point is not listed in the table of submissions considered in the s42A Report Section 22 Clearance outside a SNA.
- 7.2 The submission sought the addition of an additional clause to 22.2.8 P1:
- (viii) removal of vegetation for pest management and biosecurity works*
- 7.3 HortNZ sought an amendment to the definition of vegetation clearance to exclude clearance related to rapid biosecurity response. Should that submission point be rejected, it is sought that it be provided for as a permitted activity in this rule.
- 7.4 However the s42A Report is not recommending that the definition of vegetation clearance be amended so the submission on the rule is relevant.
- 7.5 As the submission is not addressed in the s42A Report there are no specific comments to refer to. However I assume the response would be similar to that for Rule 22.2.7 P1.
- 7.6 I support the addition to Rule 22.2.8 P1 for the same reasons as to 22.2.7 P1.
- 7.7 Therefore I support the addition of clearance of vegetation for pest management and biosecurity works to Rule 22.2.8 P1 or alternatively an amendment to the definition of vegetation clearance to specifically provide for removal of material infected by unwanted organisms.

8. CONCLUSION

- 8.1 This evidence has set out changes I support to the definition of vegetation clearance and Rules 22.2.7 P1 and 22.2.8 P1 to enable response and disposal to an incursion of an unwanted organism under the Biosecurity Act 1993.
- 8.2 This approach is consistent with the strategic direction in the plan to provide for primary production activities which enable the economic social and cultural wellbeing of the community.

Lynette Wharfe

29 October 2020

Appendix 1: Experience of Lynette Wharfe

Some of the projects I have been involved in that I consider are particularly relevant in this context are:

- a) Project Manager and facilitator for a Sustainable Management Fund (“**SMF**”) Project ‘Reducing nitrate leaching to groundwater from winter vegetable crops’, to develop management tools for vegetable growers to implement best practice for fertiliser applications, to assist in changing fertiliser usage.
- (b) Managed an SMF project for NZ Agrichemical Education Trust communicating the revised NZS 8409:2004 Management of Agrichemicals to local authorities throughout NZ, including development and leading workshops with councils.
- (c) Revised the Manual for the Introductory GROWSAFE® Course for the NZ Agrichemical Education Trust, to make the Manual more user friendly and accessible and to align it with the Hazardous Substances and New Organisms legislation. (
- (d) Managing the research component for SFF project – SAMSUN – developing a framework for the development of Sustainable Management Systems for agriculture and horticulture.
- (e) Project Manager MAF Operational Research Project Effectiveness of Codes of Practice investigating the use of codes of practice in the agriculture and horticulture sectors.
- (f) Undertook a review of Current Industry and Regional Programmes aimed at reducing pesticide risk, including assessing a number of Codes of Practice.
- (g) Contributed as a project team member for a Sustainable Farming Fund project ‘Environmental best practice in agricultural and rural aviation’ that included developing a Guidance Note on agricultural aviation, which is now on the Quality Planning website.
- (h) Undertook a review of agrichemical provisions in the Auckland Regional Air Land and Water Plan and developed a risk based response for inclusion in the Proposed Auckland Unitary Plan.

Appendix 2: Extract from EIC L Wharfe Rural Topic regarding Biosecurity

- 8.3 The s42A Report also addresses the definitions of earthworks, ancillary rural earthworks and rural ancillary earthworks.
- 8.4 HortNZ (419.134) made a submission on rural ancillary earthworks and a further submission (1168.93) supporting a submission by NZ Pork seeking that the definition of ancillary rural earthworks include burying of material infected by unwanted organisms.
- 8.5 The s42A Report accepts the HortNZ to delete the definition of rural ancillary earthworks to remove duplication. This is supported.
- 8.6 The s42A Report (Para 226) rejects the submission regarding burying of material infected by unwanted organisms and assumes that the activity would be likely to be undertaken by the Crown and that the RMA provides for emergency activity without the need for consents therefore specific provision is not needed.
- 8.7 Unfortunately this assessment does not reflect the reality of what occurs in the event of a biosecurity incursion.
- 8.8 HortNZ supported that provisions be included in the Plan to ensure that responses to incursions of unwanted organisms can be appropriately managed and addressed through the inclusion of a provision to enable a response in the event of an incursion of an unwanted organism.
- 8.9 As I understand the NZ Pork submission it is seeking is an enabling approach to ensure that provisions in the Plan do not present a regulatory hurdle in the event of an incursion of an unwanted organism.
- 8.10 While incursions of unwanted organisms are managed under the Biosecurity Act 1993 there is an interface with the RMA as some of the actions that need to be taken to respond to an incursion may be regulated under a regional or district plan. Such actions may include:
- Removal of infected material, including from riparian areas
 - Application of agrichemicals
 - Burning of infected materials
 - Earthworks for burying infected materials
- 8.11 The Regional Council manages known pests through the Pest Management Strategy. But what NZ Pork and HortNZ are seeking are provisions relating to currently unknown species – unwanted organisms under the Biosecurity Act. Therefore the Regional Pest Management Strategy does not address such pests.

- 8.12 In the event of a biosecurity incursion a response is triggered by either the Minister declaring an emergency, or the Chief Technical Officer of MPI declaring an incursion, under the Biosecurity Act 1993.
- 8.13 If the Minister declares an emergency then the Biosecurity Act overrides RMA provisions. However there has never been an emergency declared, even with PSA or fruit fly incursions.
- 8.14 If the declaration is made by the Chief Technical Officer of MPI the RMA provisions are not overridden and any response needs to comply with relevant regional and district plan rules.
- 8.15 In the event of a biosecurity incursion of an unwanted organism there is the need to be able to respond rapidly to manage spread. Vegetation removal, burial, burning, spraying of material are methods that may be used. Therefore it is important that the Plan adequately provides for these activities to be undertaken.
- 8.16 It became evident during the PSA incursion in the kiwifruit industry that regional and district plans can unintentionally be regulatory hurdles to a rapid response to an incursion through provisions such as limitation of earthworks for burying infected material or clearance of infected vegetation, including in riparian areas.
- 8.17 If an incursion of an unwanted organism was unable to be appropriately managed due to regulatory barriers in the plan it could have significant impact on the region and the rural economy.
- 8.18 The effects of a biosecurity incursion are not only on rural production but such incursions can also affect biodiversity and indigenous flora and fauna so the consideration is wider than just on rural production.
- 8.19 Given the importance of a rapid response to an incursion I consider that it is appropriate that the District Plan enable such a response by including a planning framework to support rules that enable removal and destruction of material infected by unwanted organisms.
- 8.20 Therefore I support the inclusion of provisions as sought by NZ Pork to include burying of material infected by unwanted organisms in the definition of ancillary rural earthworks.
- 8.21 I note that the s42A Report in Para 229, in response to a submission by Federated Farmers, states that removing trees and horticultural root ripping fall within 'harvesting of agricultural and horticultural crops'.
- 8.22 This is an inaccurate statement. Removing trees is generally undertaken when an orchard is being replanted or a shelter belt replaced. Root ripping is undertaken along shelterbelt rows to stop the roots spreading into the adjacent orchard. Neither of these activities are 'harvesting of agricultural and horticultural crops'.
- 8.23 Therefore it would be appropriate to include removing trees and horticultural root ripping as part of ancillary rural earthworks.