



IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of hearings on the Proposed Plan Change 55 to the Manawatu District Plan – District Wide provisions

Submission from: Horticulture New Zealand

To: Manawatu District Council

Date: 7 December 2016

1. Introduction

- 1.1 I am Angela Halliday, Manager- Natural Resources and Environment with Horticulture New Zealand.
- 1.2 Thank you for the opportunity to table this evidence to you today.
- 1.3 I have been in this role since April 2014. Prior to this I was in a compliance role at the Southland District Council which focused on Resource Management and Environmental Health. Prior to this I worked in an Economic Development Agency in Southland and was a member of the Southland Conservation Board from 2006 – 2008.
- 1.4 I have qualifications in science (BSc) with a major in Zoology from Otago University and a graduate Diploma of Wildlife Management and a Graduate Diploma of Environmental Health from Massey University. I am involved with District and Regional Council policy and planning processes throughout New Zealand in both the pre-plan collaborative process and post plan facilitation process.
- 1.5 In my role at Horticulture New Zealand I am responsible for implementing Horticulture New Zealand's wider resource management programme with a particular focus on maintaining growers license to operate through schedule 1 processes.
- 1.6 Horticulture New Zealand made submissions and further submissions on Proposed Plan Change 55.
- 1.7 Horticulture New Zealand represents the interests of 5500 commercial vegetable and fruit growers throughout New Zealand, including those located in the Manawatu District.

2. Horticulture New Zealand's submissions for this hearing

2.1 Horticulture New Zealand made submissions and further submission on the following matters:

- Network utilities including the National Grid
- Earthworks
- Reverse sensitivity
- Noise
- Biosecurity

2.2 The Hearing Report includes recommended changes that accept a number of the Horticulture New Zealand submission points. Horticulture New Zealand accepts the Officer Recommendations unless specifically referred to below.

There are a number of broader issues that emerge through the Hearing Report which are addressed below including:

- The relationship of the District Wide provisions to the Rural provisions – which are subject to a separate plan change.
- How reverse sensitivity is managed. A definition was introduced through the Industrial Plan Change. The issue is wider than industrial and there needs to be a refocus on that issue. A number of submitters have raised similar points.
- Land use provisions in National Grid yard – linked to issue with rural provisions and ensuring that landowners are not adversely affected.- relates to both policies and rules
- Whether construction of new network utilities on private land should be permitted.

2.3 Further submissions

Horticulture New Zealand made a number of further submissions opposing changes sought by a number of parties, including Powerco. In a number of instances the Hearing Report accepts the Horticulture New Zealand further submission and rejects the original submissions. Horticulture New Zealand supports these Officer Recommendations to reject those submissions:

- S16/009 FS 10/016
- S20/008 FS 10/017

3. Interface with Rural Zone provisions

The Council is undertaking the review of the District Plan in stages. While there are benefits of such an approach there are also a range of issues about the interrelationship of provisions and the Plan cannot be viewed in totality. This issue is evident through the responses to submissions on PC55 and the relationship particularly to the Rural Zone which will be reviewed at a later date. For instance the network utility provisions don't include consideration for the surrounding land use as that is considered to be a separate issue. Yet they are intrinsically related. Concerns regarding the earthwork provisions are detailed below. The other issue which has arisen relates to reverse sensitivity as discussed below.

An integrated planning framework should be the outcome sought but this can be compromised by the staged approach. Therefore Horticulture New Zealand continues to seek changes through PC55 in case they are not adequately addressed in later plan changes.

4. Earthworks

Horticulture New Zealand made a submission (3.2) regarding the exclusion in 3D.4.1 of the Rural Zone from the earthworks provisions which would effectively mean that there are no permitted earthwork activities in the Rural Zone. This matter is addressed at 11.2 of Ms Harris evidence in respect of the Federated Farmers submission who raised a similar concern to Horticulture New Zealand. Ms Harris states that earthwork volumes will be assessed for the Rural Zone as part of the Rural Zone plan change.

While it is accepted that such volumes may be addressed at a later stage in the interim the effect of the exclusion is that earthworks in the Rural Zone are not provided for.

The Discretionary Activity Rule 3D.4.4 states:

‘Any earthworks that do not meet the Permitted activity standards, or is not specifically provided for in this Plan, shall be a discretionary activity’.

It could be taken that because the Rural Zone is not specifically provided for it would fall under 3D.4.4. It needs to be clear that this is not the intent of the Plan.

Horticulture New Zealand sought that ‘except the Rural’ be deleted from 3D.4.1 but is open to other ways to ensure that earthworks in the Rural Zone are not treated as discretionary activities until the Plan is changed through the Rural Plan Change.

Decision sought:

Ensure that earthworks in the Rural Zone are not treated as discretionary activities until the Plan is changed through the Rural Plan Change

5. Reverse sensitivity

Horticulture New Zealand sought a number of changes regarding reverse sensitivity and supported submissions by NZ Defence Force on this matter. Ms Harris addresses this matter at Point 7.1 in her evidence and the Officer Recommendations reject the submissions and further submissions on the basis that a definition was introduced through the Industrial Plan Change and that the concept of reverse sensitivity is broadly understood and accepted.

Reverse sensitivity is an issue that is wider than industrial and the definition should have been included within a wider framework than just industrial.

Horticulture New Zealand submission sought:

- Definition for reverse sensitivity (1.3)
- Addition of potential reverse sensitivity to 3A.4.3 as a matter of discretion for network utilities
- Addition of new Issue 3C.2 for noise

The Officer Recommendation accepts in part the new issue for noise but does not specifically refer to reverse sensitivity as sought. No changes are recommended as a result of the other submission points.

Reverse sensitivity is an issue that Horticulture New Zealand has been involved in with a number of plans and plan changes across the country. There are a wide range of views as to what reverse sensitivity is and how it should be managed. Horticulture New Zealand has sought clarity through submissions to ensure that

there is a clear understanding through the planning framework as to how reverse sensitivity will be considered. Limiting consideration to only specific provisions such as setback distances means that the approach is not supported in the policy framework in the Plan. This becomes important when considering consent application that need to consider that relevance or importance of reverse sensitivity. While the report states that the zone provisions address the issues it is not clear or certain that they will in respect of the Rural Zone.

Decision sought:

Include provisions that clearly identify reverse sensitivity as an issue, and include in the policy and rule framework.

6. Noise

Horticulture New Zealand made a number of submissions regarding the noise provisions, including ensuring provisions for the use of aircraft for rural production activities.

The Hearing Report accepts some of the points by recommending that:

- The Introduction in 3C.1 be amended
- A new policy is added to 3C.3 to provide for noise associated with rural production activities

Horticulture New Zealand sought that a new issue be added to 3C.2: 'There is potential for reverse sensitivity complaints due to different expectations of the amenity of the zone'

As result of the submission the Officer Report is recommending the following: 'Rural and rural lifestyle uses can have different amenity expectation which can result in complaints.'

Horticulture New Zealand does not consider that this change captures the intent regarding reverse sensitivity and that differences in expectation may not be limited to rural and rural lifestyle uses. Therefore Horticulture New Zealand seeks that the issue be included as sought by Horticulture New Zealand.

In relation to aviation activities that are part of rural production activities Horticulture New Zealand sought that:

- 3C.4.2 d) iv) be amended to:
Rural production activities, including helicopter landing areas and rural airstrips are part of rural production activities, except for intensive farming
- Guidance Notes 2) relating to noise form helicopters using separate landing areas be amended by adding: but intermittent use for rural production activities is exempt.

The evidence by Mr Lloyd does not support these changes as it is considered that they are appropriately controlled by NZ Standards.

There are two standards that refer to aircraft noise:

- NZS6807:1994 Noise management and land use planning for helicopter landing areas
- NZS6805: 1992 Airport noise management and land use planning

However neither standard is intended to apply to infrequently used airports or landing areas. Therefore they are not designed to be applied to operations such

for rural production activities which are intermittent, as opposed to being used for regular use. It is accepted that if an airstrip is to be used on a regular basis or as a base it would be appropriate to manage the effects as they are on-going. However when an aircraft comes in for a short period of time to undertake a spraying or fertiliser application the noise effects are short term and intermittent.

Helicopter landing areas is not defined in the Plan but NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing areas states that the Standard is intended to apply to helicopter landing areas used for ten or more flight movements in any month and that it is not intended to apply to infrequently used helicopter landing areas.

Use of helicopters for rural production activities may exceed more than 10 movements in a month but are infrequently used. For instance: when spraying an orchard there may well be more than 10 movements in one application situation but over the year there would be less than 120 movements. Helicopters will land where there is access to support crews and water supply and will vary according to the nature of the operation.

The effect of Mr Lloyd's recommendation is that all helicopter landing areas and rural airstrips are subject to the NZ standards areas regardless of the exclusion for limited duration or infrequently used areas. Horticulture New Zealand does not accept this recommendation and seeks that the provisions be amended.

The relief sought by Horticulture New Zealand could be amended to include 'intermittent or infrequent' to clearly indicate that regular use of an area is not included.

Decision sought:

Provide an exemption in 3C.4.2 iv) for helicopter landings when undertaking rural production activities on an intermittent and infrequent basis as follows:

Rural production activities, including helicopter landing areas and rural airstrips that are used on an intermittent or infrequent basis as part of rural production activities.

Amend 3C.4.2 Guidance Notes 2) by adding: but intermittent or infrequent use for rural production activities is exempt.

7. Network utilities

Horticulture New Zealand made submissions and further submissions that sought greater recognition of land uses and landowner to ensure that they are not adversely affected by network activities.

- 7.1 Generally the Officer Recommendations are to reject the submissions as the matters will be addressed in the later Rural Plan Change. This position is not accepted by Horticulture New Zealand as the provisions need to be a suite that adequately describes and provides for the activities. In addition the Officer Recommendation considers that the word 'environment' appropriately encompasses such landowners so specific reference is not required. Using the word 'environment' does not provide a level of specificity for the issue to be addressed.

Decision sought:

Amend provisions in 3A as sought by Horticulture New Zealand to ensure that

landowners and land uses are appropriately recognised within the consideration of network utilities.

7.2 Permitted activities 3A.4.1

The provisions in 3A.4.1 provide for a number of activities to be provided for as permitted activities. Horticulture New Zealand accepts that minor upgrading and maintenance of network utilities is appropriate as a permitted activity. However construction of new utilities has the potential to have wider adverse effects, including on landowners where the construction is on private land. Therefore it was sought that new construction be deleted as a permitted activity to ensure that the effects on landowners is considered as part of the process. Such an approach does not restrict the construction of new utilities. Rather that there needs to be consideration of the wide effects of the construction.

The Officer recommendation is to reject the submission and not make the change as sought. In addition Clause c) is recommended to be amended by adding 'construction' but is not limited to facilities on public land or road reserve. Horticulture New Zealand does not accept these recommendations and seeks that the Hearing Panel recognise that it is appropriate that landowners have a legal right to be considered an affected party.

Decision sought:

Amend 3A.4.1 Permitted Activity Rules as follows:

- b) Delete 'construction'
- c) Deleted 'construction'
- g) Delete 'construction'

7.3 Provisions for the National Grid Yard.

Horticulture New Zealand supported in part the submission S11/027 by Transpower seeking a new policy to provide for the National Grid. As a result of the submission the Officer is recommending new policy 3A.3 2.4 under Objective 2. However the proposed wording refers in clause b) refers to 'farm buildings'. Transpower sought 'large scale structures'. As a result any farm buildings would be excluded from establishing within the national Grid Yard. This was not the intent of the Transpower submission or Horticulture New Zealand's support for the policy as it is recognised that some farm buildings may be appropriate within the National Grid Yard. I understand that Transpower has addressed this issue at the hearing.

Horticulture New Zealand supported that provisions should be included to provide for land use activities in the National Grid Yard but this is rejected on the basis that these should be included in the zone rules. This means that the provisions will not be included as a suite but disjointed across the Plan. It is unclear at this stage what provisions may be included.

Decision sought:

Amend recommended Policy 3A.3.2.4 by replacing 'farm buildings' with 'large scale structures'.

Include provisions as sought for land use within the National Grid Yard so that it is clear what is provided for.

8. Biosecurity

Horticulture New Zealand sought that provisions be included in the Plan to ensure that there could be a rapid response to an incursion of unwanted organisms under the Biosecurity Act. The Hearing Report is recommending some changes and these are supported. However some additional clarification could assist.

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, including in riparian areas. In relation to PC55 the earthwork provisions are relevant. Additional provisions may be sought through the Rural Plan change in relation to vegetation removal, including in riparian areas.

While biosecurity is generally managed under the Biosecurity Act, there is an interface with the RMA so the District Plan has a role to play in respect of managing biosecurity risks.

The need for such provisions in District Plans became evident through the PSA incursion in the Bay of Plenty, where substantial amounts of material needed to be buried within a short time frame. The District Plan provisions that did not provide for such an activity and so were a regulatory hurdle to the response. Since that time Horticulture New Zealand has been seeking to ensure that all District Plans would enable a rapid response to any incursion. While Horticulture New Zealand's interest is horticulture there are also a range of unwanted organisms that are of concern to pastoral agriculture.

There are a range of threshold levels declaring biosecurity incursions and it is only when a biosecurity emergency is declared by the Minister that the emergency provisions in the Biosecurity Act override the RMA provisions. In other situations a declaration may be made by the Chief Technical Officer of Ministry of Primary Industries (MPI). In such a declaration the regional and district plan rules need to be met in terms of disposal of infected material and given the urgency required it is not practical to have to obtain resource consent. Therefore Horticulture New Zealand seeks provisions in earthworks provisions in the District Plan to enable disposal or treatment of material to be undertaken in response to a biosecurity incursion.

The Hearing Report is recommending that provisions be added to:

- 3D. 1 Introduction
- 3D.4.1 c) Permitted Activities
- 3D.4.1 Guidance note

Rule 3D.4.1 c) provides for permitted activity providing that 3D.4.2 Standards for permitted activities are met, which includes h) regarding earthwork volumes in Table 3D.1. There is no volume for the rural area so it is unclear whether disposal would be able to be undertaken as a permitted activity in the Rural Zone.

Horticulture New Zealand sought that the permitted activity rule provide for earthworks for the purposes of disposal of material infected by unwanted organisms as declared by the Minister under the Biosecurity Act 1993. On reflection it may be clearer that the words 'by the Minister' are not included so it the provision applies to any declaration made under the Biosecurity Act 1993.

Decision sought:

That Permitted Standard 3D.4.2 h) does not apply to earthworks required to dispose of material infected by unwanted organisms under the Biosecurity Act 1993.

Delete the words 'by the Minister' from recommended 3D.4.1 c).

Angela Halliday
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Ends