

**BEFORE THE INDEPENDENT HEARING PANEL  
APPOINTED BY HAWKE'S BAY REGIONAL COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the hearing of submissions on Proposed Plan Change  
9 (PPC9) – Tūtaekurī, Ahuriri, Ngaruroro and Karamū  
Catchments (TANK)

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**LEGAL SUBMISSIONS OF COUNSEL  
FOR BROWNRIGG AGRICULTURE GROUP LIMITED**

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Sainsbury Logan & Williams  
Solicitors  
Cnr Tennyson Street & Cathedral Lane  
**Napier**  
PO Box 41  
Phone: 06 835 3069  
Fax: 06 835 6746  
Ref: Lara Blomfield

## **Introduction**

1. These legal submissions are made on behalf of Brownrigg Agriculture Group Limited (**BA**). BA lodged a submission and non-expert evidence was prepared by Bridget Margerison, BA's Resource and Compliance Manager for this hearing. Unfortunately, Ms Margerison is having eye surgery and cannot attend the hearing, so the detail of the matters that would have been addressed in her evidence is included in these submissions instead.
2. BA's submission on Plan Change 9 (TANK) provided an overview of BA as a company and the nature of their farming activities. BA's primary interest in TANK relates to its land around Lake Poukawa, at Te Hauke and on the Heretaunga Plains.
3. As you will no doubt have heard from many primary sector submitters already, the ongoing access to reliable irrigation water is a fundamental and essential part of BA's business. Without reliable irrigation water many of their cropping and general farming activities would be difficult if not impossible to undertake. I am told that at the very least yields would suffer and the quality of the produce might be such that it is no longer suitable for export.
4. That could in turn reduce both economic growth and employment, at least in the short term, which are relevant matters to consider under your s32AA assessment.
5. Equally important to BA is the management of soil water levels in low lying areas serviced by gravity and pumped drainage systems.

### **PC9 Provisions Supported**

6. In BA's submission, the company supported a number of TANK provisions as notified. BA has reviewed the Hearing Report and while some of those provisions are recommended to be amended the company is comfortable with the officers' recommendations in relation to them and so I do not discuss those provisions any further.

### **PC9 Provisions Opposed**

7. BA opposed a number of TANK provisions and sought amended wording for some and the deletion of others. BA supports the Hearing Report recommendations relating to:
  - (a) Deletion of POL TANK 14
  - (b) Amendment of rule TANK 9(f)

- (c) Amendment to Schedule 30, Section B: Catchment Collective Requirements, Environmental Outcome 2.2(h)
  - (d) Deletion of all provisions relating to stock exclusion
  - (e) Deletion of RRMP Rule 33(g)
8. BA also does not wish to pursue its submissions on:
- (a) OBJ TANK 15 given the focus of the provision on wetland protection
  - (b) OBJ TANK 17 because other provisions (eg OBJ TANK 14 (b)) provide for non-Maori economic well-being
  - (c) POL TANK 46(a) because POL TANK 47(c) already provides a 95% reliability of supply for irrigation takes
9. However, some provisions remain of concern.

**POL TANK 36(g)**

10. BA suggested amending clause (g) of POL TANK 36 to refer to reducing existing levels of irrigation water use to reasonable crop water needs (as was provided for in POL TANK 37(d)(ii)). The Hearing Report recommended no changes to POL TANK 36(g).
11. However, rule TANK 9 is recommended to be amended to delete Condition (e) and to change both Condition (c) and Matter of Discretion 1 to refer to “Actual and Reasonable” (which is a defined term in the Glossary of Terms).
12. The Hearing Report recommended amending clause (b) of that definition to the “average annual amount as measured by accurate water meter data in the ten years preceding 2 May 2020” instead of the maximum annual amount in the ten years preceding 1 August 2017.
13. BA supports the change of date from 1 August 2017 to 2 May 2020 as it makes sense to use the most recent water meter data.
14. BA was opposed to the “average” annual water use over the ten year period. In dry years BA applies more water to crops than would be the case on average over a ten year period. In those dry years the amount water applied was required to sustain crop health and yields. That is particularly important for BA’s export crops including onions and squash.
15. BA therefore supports the Addendum Report’s recommendation to revert to using the word ‘maximum’ in clause (b).

16. A further concern relates to clause (c)(i) and a possible inconsistency with clause (b) because clause (c)(i) fails to refer to the “maximum annual amount” irrigated in the preceding ten years. Clause (c) refers to Irricalc which was used for HBRC’s Plan Change 6 and I understand that the model calculates seasonal (annual) volumes and so for the sake of consistency and clarity I suggest that clause (c)(i) could be further improved to refer to the maximum annual volume.
17. It would also be helpful to confirm that the practicable option embodied in clause (b) also applies to irrigation takes.
18. So, as a consequence of BA’s submission on POL TANK 36(g) and the reporting officers’ response to it, BA asks that the wording of clauses (b) and (c)(i) of the definition of “Actual and Reasonable” are amended as follows (underlining and strikeout are in addition to the Addendum Report recommended changes):
- b) ~~For irrigation takes and non-irrigation takes~~ the maximum annual .....
- c)(i) no more .... is not more than the maximum annual amount irrigated in the ten years preceding 2 May 2020.

### **POL TANK 39**

19. BA submitted on POL TANK 39 and asked that it be amended to also enable individual consent holder stream augmentation mitigation or offsetting actions. The Hearing Report recommended an entirely new Policy 39 which BA supports. The company considers it appropriate that HBRC will investigate options (including funding) for stream flow enhancement in consultation with stakeholders such as itself and then implement the preferred options within 10 years.

### **Rule TANK 5**

20. BA sought a number of changes to this rule.
21. The recommended change to clause (c) to refer to land areas greater than 10 ha is supported.
22. The Hearing Report recommended rewriting Schedule 29 to specify a hierarchy of land uses based on N leaching. Under rule TANK 5 BA would need consent to move to a higher leaching land use and my reading of amended Condition (b) is that it would capture any land that is newly irrigated after May 2020. However, to access rule TANK 5 BA would also have to be a member of a Catchment Collective (Condition (d)). I am informed that the Karamu Rivers Collective has been formed, but Poukawa is not yet a sub-catchment member. BA also has commercial interests in land outside the Karamu Catchment.

23. In the absence of Catchment Collectives covering all of BA's land, it would be helpful if rule TANK 5 also allowed for land that already has a Farm Environment Plan (or a Freshwater Farm Plan by another name) in place for it. For example, as a result of Plan Change 6 all of the BA land in the Tukituki Catchment has a Farm Environment Plan and those Plans have been lodged with HBRC.
24. On a minor matter I see that rule TANK 5 condition (d) refers to Schedule 30B but I could not find that schedule in Appendix 1B. Is it supposed to refer to Schedule 30 Section B? If so then condition (d) could be amended to address BA's concerns as follows:
- (d) The owner of the land subject to the changed land use is either:
- (i) a member of subject to a Catchment Collective which has a Catchment Collective Plan Programme meeting the requirements of Schedule 30 Section A; or
- (ii) has a Freshwater Farm Plan in place the meets the requirements of Schedule 30 Section B.

#### **RRMP Rule 7**

25. BA asked for new Condition (f) to be amended so as to enable necessary drain maintenance activities. The Hearing Report did not recommend any change to that clause.
26. I note that RRMP Rule Condition 7(f) refers to rivers but many farm drains were originally natural streams and so they would be modified watercourses under the RMA definition of river.
27. In low lying areas, such as those that BA farms in the Poukawa Basin and at Te Hauke, it is essential that drain maintenance is carried out as and when required. BA appreciates the need to ensure that the ecosystem values of the low lying areas (such as those in Lake Poukawa and its margins) are protected. An efficient and effective way to do that whilst allowing farming activities to carry on in a sustainable manner would be to have the Freshwater Farm Plan specify what drain maintenance would be allowed to occur.
28. Condition (f)(ii) refers to infrastructure activities and enabling drain maintenance would be consistent with that theme.
29. Accordingly, Condition (f) of RRMP Rule 7 could helpfully be amended to read:

- f. In the Tūtaekurī, Ahuriri, Ngaruroro and Karamū catchments, there is no clearance of indigenous vegetation within 10m of any rivers except;
- i. where the clearance is part of improvements to riparian management for water quality/biodiversity purposes as specified in the relevant Freshwater Farm Plan or Catchment Collective Plan;
  - ii. where the clearance is part of a drain maintenance programme that is included in the relevant Freshwater Farm Plan that has been submitted to HBRC under Schedule 30 Section B; or
  - iii. where the clearance is necessary for construction of crossings or installation of a reticulated or network service

30. If the Panel is minded to make the above amendment, then a consequential amendment to Schedule 30 Section B, 2.2(c) would helpfully follow:

- c) Management of riparian margins and drain maintenance activities, including to meet the outcomes specified in TANK POL 11.

31. I am happy to answer questions. If the Panel have questions relating to BA's on the ground farming operations then I am happy to make a note of those and provide the answers in writing after obtaining the answers from Ms Margerison.

7 June 2021



Lara Blomfield  
Counsel for Brownrigg Agriculture Limited