

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

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

AND

IN THE MATTER of Proposed Plan Change 9 - Tūtaekurī,
Ahuriri, Ngaruroro and Karamū **(PC9)**

LEGAL SUBMISSIONS FOR HORTICULTURE NEW ZEALAND

21 June 2021



ATKINS | HOLM | MAJUREY

Helen Atkins/Nicole Buxeda
PO Box 1585
Shortland Street
AUCKLAND 1140

Solicitor on the record
Contact solicitor

Helen Atkins
Nicole Buxeda

Helen.Atkins@ahmlaw.nz
Nicole.Buxeda@ahmlaw.nz

(09) 304 0421
(09) 304 0424

INTRODUCTION AND OVERVIEW

1. Horticulture New Zealand (**HortNZ**) generally supports PC9 and considers it a sophisticated approach using staging and data-gathering to work towards an evidence-based implementation of the concept of Te Mana o Te Wai as set out in the National Policy Statement for Freshwater Management 2020 (**NPSFM2020**).
2. HortNZ considers PC9 to be a 'step-through' plan change, which should be seen to give effect to the NPSFM2020 as far as possible within scope and consultation requirements.
3. HortNZ is generally supportive of the Hawke's Bay Regional Council's (**HBRC**) approach to the implementation of the NPSFM2020 in regard to PC9.
4. HortNZ considers that PC9 as currently drafted in the 42A Report recommendations and s42A Addendum Report does not make adequate provision for, nor give appropriate recognition to, the realities of water requirements for food supply needed to support a growing population.

Evidence

5. HortNZ is calling evidence from the following witnesses:
 - (a) Andrew Dooney (Planning)
 - (b) Stuart Ford (Economics and Overseer)
 - (c) Gill Holmes (Hydrology)
 - (d) Catherine Sturgeon (Water Quality)
 - (e) Damien Farrelly (NZGAP)
 - (f) Michelle Sands (Corporate, including grower statements).

s42A Addendum Report

6. HortNZ's experts have considered the s42A Addendum Report, circulated on 19 May 2021. I attach in **Appendix A** a table summarising their responses to the changes proposed in Addendum.

SCOPE OF SUBMISSION

7. HortNZ's submission in relation to the objectives stated:

HortNZ has specific comments about the provisions detailed below as currently drafted, and seek the specific amendments set out in the table at the end of the submission, **or amendments to like effect**.
[emphasis added]

8. In his evidence Mr Dooney seeks amendments to Objectives 10 – 14 and 16 to support the importance of recognising and enabling the maintenance of food security.
9. While no scope issue has been raised, we pre-emptively, and for the certainty of the Commissioners, submit that these amendments are within scope and fulfil the relevant legal tests, as follows:
 - (a) The amendments are “reasonably and fairly”¹ within the scope of the submissions made by HortNZ because HortNZ were generally seeking recognition of the importance of maintenance of growing capacity and food security;
 - (b) No additional persons (ie over and above those who have already submitted) would have been spurred to lodge a submission had the specific amendments to those objectives been included in the submission;² and
 - (c) Therefore, no prejudice will arise from inclusion of the wording now sought in Mr Dooney's evidence.³
10. In short, while a reasonable and informed member of the public might not have anticipated the exact words now being sought by HortNZ (and therefore included in the objectives should the Panel accept them)⁴, it is reasonable to conclude that such persons could have anticipated that HortNZ was seeking thematically similar changes to the objectives of PC9.
11. Accordingly, we consider these changes within the scope of the Panel to include in PC9 should it so choose.

NATIONAL POLICY STATEMENT 2020

12. The timing requirements for implementation of the NPSFM2020 has been canvassed in legal submissions from counsel for HBRC.
13. Our views on how far the Panel can recognise the NPSFM2020 reflect those of the HBRC – “*where scope exists in PPC9 and in submissions for changes that would help PPC9 to give effect to the NPS-FM 2020, those changes can be made.*”⁵
14. The s42A Report recognises that every local authority must give effect to the NPSFM2020 as soon as reasonably practicable. It

¹ *Countdown Properties (Northland) v Dunedin City Council* [1994] AP214/93 at pg 41.

² *Haslam v Selwyn District Council* (1993) C76/93, at pg 9.

³ *Countdown Properties (Northlands) Limited v Dunedin City Council* AP214/93 at pg 42.

⁴ *Foodstuffs (Otago Southland) Properties Limited v Dunedin City Council* (1993) 2 NZRMA 497, at pp 59, 60.

⁵ Legal submissions for Hawke's Bay Regional Council (21 May 2021) at [4.8].

notes that there is a limiting factor on this in that the s42A Report can only make recommendations which give effect to the NPSFM2020 where there is scope to do so in the submissions.⁶

15. The s42A Report notes that there has not been engagement to determine how Te Mana o Te Wai applies to water bodies and freshwater ecosystems in the region. Therefore, the Report concludes, it is not possible to fully give effect to the true intent of the NPSFM2020 until this engagement has occurred.⁷
16. Nevertheless, HortNZ considers the direction of PC9 is towards compliance with the NPSFM2020 and accordingly we have treated PC9 not as an interim plan change waiting on required changes to bring it into line with the NPSFM2020, but rather is a step-through plan change to recognising the NPSFM2020 pending specific consultation.
17. The expert evidence from HortNZ supports this position and makes suggestions as to how to better bring PC9 in line with the NPSFM2020 in a manner which is within scope.

Recognising the importance of horticulture within the NPSFM2020

18. The concept of Te Mana o Te Wai was included in the NPSFM 2017 but has been further developed in the NPSFM 2020,⁸ which sets out a hierarchy of obligations:⁹
 - (5) There is a hierarchy of obligations in Te Mana o te Wai that prioritises:
 - (a) first, the health and well-being of water bodies and freshwater ecosystems **(Tier one)**
 - (b) second, the health needs of people (such as drinking water) **(Tier two)**
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future. **(Tier three)**
19. The NPSFM2020 states objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA.¹⁰
20. It is HortNZ's view that the hierarchy of Te Mana o Te Wai includes:

⁶ S42A Hearing Report on Proposed Plan Change 9 (15 April 2021) at [55].

⁷ S42A Hearing Report on Proposed Plan Change 9 (15 April 2021) at [59].

⁸ National Policy Statement for Freshwater Management 2020 at [1.3]:

Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

⁹ National Policy Statement for Freshwater Management 2020 at [1.3(5)]

¹⁰ Resource Management Act 1991 s45(1).

- (a) Tier two: fruit and vegetables for domestic consumption enable the health needs of people; and
- (b) Tier three: fruit and vegetables for export purposes enable people and communities to provide for their social, economic, and cultural well-being.
21. In her evidence Ms Sands details the interplay between Te Mana o Te Wai and domestic food supply, and the importance of affordable fruit and vegetables for domestic consumption.¹¹
22. It is our submission that the phrase “such as” in Tier two of the framework of Te Mana o Te Wai does not limit the health needs of people to only considerations of drinking water. The Merriam-Webster dictionary defines “such as” as a phrase which is “used to introduce an example or series of examples”.¹² We submit that Tier two is not limited to just drinking water, and recognition needs to be provided that other aspects that go towards promoting the health needs of people, including fresh fruit and vegetables such as the types grown in the Hawke’s Bay region, fit within Tier two of the hierarchy.
23. It is submitted that the situation of horticulture under tier three is clear.
24. The s42A Addendum Report comments:¹³
- With regards to the hierarchy, **tier one is prioritised first so we must prioritise the health and well-being of water bodies and freshwater ecosystems.** The Heretaunga aquifer is an overallocated aquifer and Policy 11 of the NPSFM2020 states that over-allocation is phased out, and future over-allocation is avoided.
25. We agree with the comment in the Addendum Report and note that it is our submission that the way and rate at which over-allocation is phased out should be guided by Tier two and three which in turn is guided by Part 2 of the RMA which we comment on now.
26. Although recent cases have highlighted the lack of need for recourse to Part 2 except where there is invalidity, Part 2 is still the engine-room of the RMA. In this case recourse to Part 2 is helpful (and it is submitted necessary) to understand how the hierarchy of obligations in Te Mana o Te Wai are to be met.
27. Accordingly, we can look to Part 2, which provides that ‘sustainable management’ is ‘managing the use, development and protection of resources **in a way, or at a rate** which

¹¹ Evidence of Michelle Sands for Horticulture New Zealand (7 May 2021) at [72] – [83].

¹² Merriam-Webster dictionary online.

¹³ Addendum Report to the s42A Hearing Report on Proposed Plan Change 9 (19 May 2021).

enables...'. The direction of 'in a way, or at a rate' does not allow one consideration to trump others, rather it requires that the use, development and protection of resources (in this case freshwater) is undertaken in a way and at a rate which allows for the matters in covered by Tier two and Tier three.

28. We consider that the requirement to have manage resource use 'in a way or at a rate that enables...' contains aspects of both time and space.
29. The 'way' part of this is vital – the management of the water bodies covered by PC9 must be undertaken in a way which considers how freshwater values are provided for across the full flow regime and at the sub-catchment and catchment scale. In addition, the management of freshwater must also consider other values that the TANK waterbodies support, both within their catchments and beyond, including national. values such as food security.
30. The 'rate' part must be undertaken in a way which considers the time required for people and communities to adapt to changing requirements.
31. In short, achieving the hierarchy of obligations set out in Te Mana o Te Wai will take time. HortNZ, like the Council, totally agree that PC9 is a step towards fully achieving NPSFM2020, and that future and further work is necessary.
32. In the s42A Addendum Report the authors note uncertainty with regard to recognition of food supply importance:¹⁴

I am not sure how we could determine how much water we could allocate to grow fruit and vegetables for domestic supply. Or whether domestic supply includes other regions in New Zealand or just the Hawke's Bay region. Some horticulture may fit inside tier two of the hierarchy of obligations, but I am not sure that all horticulture produced in the region would.
33. HortNZ presents evidence that horticultural crops grown in the TANK catchments are significant for supporting domestic food security. HortNZ seeks that PC9 include recognition of the importance of horticulture in supporting food security in New Zealand and provides the appropriate framework necessary for maintaining the viability and success of horticultural crops in supporting the health of a growing population.
34. The changes sought by HortNZ are consistent with Te Mana o Te Wai, and the associated obligation hierarchy. The changes reflect the importance of some aspects of horticultural activity

¹⁴ Addendum Report to the s42A Hearing Report on Proposed Plan Change 9 (19 May 2021).pg 15.

that is covered by Tier two and others by Tier three. The changes are within the scope of PC9, the submissions made on it and the NPSFM2020. It is submitted that the changes sought by HortNZ do not go towards implementing the NPSFM2020 any further than is appropriate in this case.

ASSESSMENT OF HORTNZ'S CHANGES IN THE NPSFM2020 HIERARCHY

35. Policy 11 of the NPSFM2020 stipulates that 'freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided'. Other policies in the NPS note that management involves integration¹⁵, climate change considerations¹⁶, and efficiency¹⁷. While some of the changes sought by HortNZ seek to allow water transfer and use, these changes fall within the policies of the NPSFM2020 and do not cut across the requirements of Policy 11.

Land use change and nutrient losses

Policy 21, Schedule 29, Rules 5 and 6

36. Mr Dooney (in his Appendix 1) recommends:
- (a) Amendments to enable the consenting of land use change within a catchment collective (Rule 5);¹⁸
 - (b) Amendments to more accurately manage nitrogen loss resulting from a change in land (Schedule 29);¹⁹
 - (c) Changes to Policy 21 to ensure it does not prohibit some Commercial Vegetable Production (**CVP**) rotations in TANK catchments, specifically wording changes to 21 (d) to mitigate the existing use of the word 'avoid'.²⁰
37. For the reasons already stated I submit that these changes are consistent with the NPSFM2020. The hierarchy of obligations does not require complete compliance with the first obligation at the expense of the second and third. All three matters have to be considered together, so all obligations are provided for. I submit that HortNZ's changes achieve this.

¹⁵ **Policy 3:** Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

¹⁶ **Policy 4:** Freshwater is managed as part of New Zealand's integrated response to climate change.

¹⁷ **Policy 11:** Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

¹⁸ Evidence of Andrew Dooney (7 May 2021) at [91].

¹⁹ Ibid at [99], [100].

²⁰ Ibid at [103].

The water quantity management framework

Policy 36, 37, 38, 52, and Rule 12

38. HortNZ considers the prevention of re-allocation of actual and reasonable allocation within the allocation limit to be undesirable and seeks a framework that is flexible enough to respond to individual circumstances that require consents.
39. In pursuit of this outcome Mr Dooney:
- (a) Seeks to make Rule 12 a non-complying activity, and not the prohibited activity it currently sits at;
 - (b) Looks to build flexibility into Policy 37 by allowing water that might become available within the interim groundwater allocation limit or the limit of any connected water body to be re-allocated to 'essential municipal uses or primary production purposes on versatile land, or for use in stream flow maintenance and enhancement schemes';²¹ and
 - (c) Suggests changes to Policy 38 to enable the re-allocation of groundwater without restricting such allocation to holders of permits before 2 May 2020 to recognise the reality of retirement of succession planning of growers.²²

Rules 9, 10, 11 and definition of 'Actual and Reasonable'

40. HortNZ also seeks that the definition of 'Actual and Reasonable' be amended to enable existing water takes, when being renewed, to meet the Restricted Discretionary conditions of Rules 9 and 10, or fail to be assessed as discretionary under Rule 11.²³

Prohibited status

41. Section 87A of the Act states that if an activity has a prohibited status no application for a resource consent may be made for the activity, and the consent authority must not grant a consent for it.
42. The Environment Court has emphasised the severe nature of the prohibited status, noting 'the imposition of prohibited activity status on any activity or activities is the most draconian form of

²¹ Evidence of Andrew Dooney for Horticulture New Zealand (7 May 2021) at [129].

²² Ibid at [130] – [132].

²³ Ibid at [138].

control available under RMA'.²⁴ A prohibited status should not 'be imposed lightly and without detailed consideration'.²⁵

43. Mr Dooney says the prohibited status in Rule 12 is inappropriate and should properly be a non-complying status in order to allow flexibility to unusual instances of administratively challenging consent applications. He considers policies 36-38 are sufficient to protect inappropriate water resource allocation.²⁶

Conclusion on water quantity

44. The changes sought by HortNZ to the water quantity management framework aim to enable reasonable use of water for horticultural purposes. These uses go to the integrated management of freshwater, and the consideration of land use in climate change response. The changes aim at efficient allocation and water use. While Policy 11 requires that all existing over-allocation be phased out and future over-allocation avoided, the changes sought do not run contrary to this.
45. The changes sought are necessary to fulfil the health needs of people, and the ability of people and communities to provide for their social, economic, and cultural well-being.
46. These changes will implement the NPSFM2020 in a way and at a rate which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety, while: sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; safeguarding the life-supporting capacity of air, water, soil and ecosystems; and avoiding, remedying or mitigating adverse effects on the environment.

CONCLUSION

47. PC9 must provide for the continuation of horticulture in the area to support local and national growth and food requirements.
48. Permitting appropriate transfers of water permits is necessary to achieve this.
49. Recognition of the importance of horticulture for food security is within the scope and contemplation not only of HortNZ's submission but also of the NPSFM2020.

²⁴ *Thacker v Christchurch City Council* EnvC C026/2009 at [42].

²⁵ *Ibid* at [42].

²⁶ Evidence of Andrew Dooney (7 May 2021) at [119], [120].

50. The NPSFM2020 requires a staged approach to the hierarchy and precedence cannot be given to the first obligation at the cost of the second two obligations going unfulfilled.
51. The NPSFM2020 must be engaged with in terms of 'in a way, or at a rate', and changes must be made which accord with this requirement – that is undertaken in contemplation of evidence-based assessments and the needs of the three tiers of the hierarchy.

DATE: 21 June 2021



Nicole Buxeda

Counsel for Horticulture New Zealand

**APPENDIX A – TABLE OF EXPERT RESPONSES TO S42A ADDENDUM REPORT
RECOMMENDATIONS**

Horticulture NZ – Response to Section 42A Addendum Report (TANK Hearing 21 June 2021)

INDUSTRY EVIDENCE – MICHELLE SANDS

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>POL TANK 8 – Source Water Protection.</p> <ul style="list-style-type: none"> Do not recommend any changes (highlight in an error in S42A report). 	<p>Refers to para 156 – 157 EIC.</p> <p>The s42A addendum author notes that there has been an error in the s42A report (where it notes that submission point 180.25 is accepted, this is an error).</p> <p>The submission point sought that <i>‘the nature of existing land use and water use within Source Protection Zone, existing investment in those activities, and the specific locational needs of those activities’</i> be added to the list of matters considered when assessing applications for a discharge permit or land use consent within a Source Protection Zone.</p> <p>I accept no change to POL TANK 8, however continue to seek amendments to POL 7 and POL 9 as in my EIC; this is important to avoid limiting the productive land uses of versatile soils on the Heretaunga Plains.</p>
<p>OBJ TANK 3, POL TANK 21 – Climate Change</p> <ul style="list-style-type: none"> Delete “effects of” climate change in TANK OBJ 3 and insert a new clause in TANK POL 61 to refer to greenhouse gas emission reduction. Insert a new matter for control/discretion in TANK Rules 5/6 to refer also to TANK POL 61 	<p>Refers to para 84 – 96 of EIC.</p> <p>I support the recommendations of the S42A addendum author – which accepts the change HortNZ sought to OBJ TANK 3, as well as consequential changes in TANK POL 61 and TANK Rules 5 and 6.</p>

PLANNING EVIDENCE – ANDREW DOONEY

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>Te Mana o Te Wai – food security in hierarchy of obligations</p> <ul style="list-style-type: none"> Do not recommend any changes 	<p>Refers to para 24 – 34 EIC</p> <p>I retain the position stated in my EIC. (This matter is also addressed in the evidence of Michelle Sands).</p>
<p>POL TANK 21 – Land use change</p> <ul style="list-style-type: none"> Insert “average” in relation to annual nitrogen loss in the policy and the meanings for nitrogen loss rates and targets. Refer to nitrogen loss in relation to crop rotations, and for completeness add meaning for ‘crop rotation’. <p><u>Crop rotation means the systematic planting of different crops in sequence over multiple years within the same growing space or across changing land parcels, and often including a pasture phase.</u></p>	<p>Refers to para 14 EIC (and Stuart Ford para 96-97)</p> <p>I support the recommendations of the s42A addendum author – the insertion of ‘average’ in relation to where annual nitrogen loss is referred to in the plan and to add crop rotation (defined) into Policy 21, as proposed would address these concerns raised in my evidence.</p>
<p>Schedule 29 and Rules TANK 5 and 6</p> <ul style="list-style-type: none"> Delete reference to “the property’ in matter 3 of Rule 5. 	<p>Refers to page 46 of EIC.</p> <p>I support the recommendations of the s42A addendum author – because my evidence sought the deletion of property in matters of control for Rule 5.</p> <p>(Refer below to Stuart Ford, regarding the land use change provisions with respect to Schedule 29)</p>
<p>Glossary (definition of farm and farm enterprise)</p> <ul style="list-style-type: none"> Delete ‘farming enterprise’ from the glossary but refer to parcels held in single or multiple ownership with the meaning for farm. Recommends adding to the end of the definition reference to where a farming enterprise comprises leased and owned 	<p>Refers to page 44; para 78 – 79 of EIC.</p> <p>I support the recommendations of the s42A addendum author -the amendment proposed addresses my concerns with the definitions raised in my EIC, because it is my understanding that it provides for leased and owned land/</p>
<p>Glossary (flushing flow)</p>	<p>Refers to page 10 and 62 of EIC.</p>

<ul style="list-style-type: none"> • Insert meaning for flushing flow. 	<p>Our evidence sought a definition be added for flushing flows, this is not the exact wording we proposed. I support the recommendations of the s42A addendum author – based on the opinion of Gillian Holmes that it covers the general concept without any restriction from statistics.</p>
<p>Definition of Actual and Reasonable Use</p> <ul style="list-style-type: none"> • Amendment to retain 'maximum rather than average' 	<p>Refers to para 139 of EIC (and Gillian Holmes para 102). Refer to response of Gillian Holmes below.</p>
<p>Volumes for permitted activities, including rootstock</p> <ul style="list-style-type: none"> • Recommends amending Rules TANK 7 and 8 to more clearly account for the previously permitted water takes in RRMP Rules 53 and 54. 	<p>Refers to para 160-165 of EIC. I support the recommendations of the s42A addendum author – the amendment proposed reflects Appendix A of my EIC and would provide greater clarity.</p>
<p>Irrigation efficiency</p> <ul style="list-style-type: none"> • Recommend including a definition for Application Efficiency in the Glossary: <u>Application Efficiency (AE) means the percentage of applied water that is retained in the crop root zone or in the target area after an irrigation event. To meet good irrigation management practice, 80% of water applied must retained in the crop root zone</u> 	<p>Refers to Appendix 1, pg.63 if EIC. I support the recommendations of the s42A addendum author – HortNZ's submission sought that a definition for application efficiency be added.</p>

WATER QUALITY EVIDENCE – CATHERINE STURGEON

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>TANK OBJS 10-14</p> <ul style="list-style-type: none"> • Delete reference to sub-catchments. • Refer consistently to 'target attribute states' as required. 	<p>Refers to para 91ff of EIC I support the recommendations of the s42A addendum author – and recommend that the priority catchment maps are relabeled 'priority areas', as outlined in the discussion.</p>
<p>TANK POL 21 – Land use change</p>	<p>Refers to para 87-90 of EIC.</p>

<ul style="list-style-type: none"> Ms Sturgeon suggests the policy be amended to refer to all contaminant loss that may arise from land use change and to provide for land use change where that results in negligible cumulative increase in N loss if the activity results in improvements to other water quality attributes. <i>(No change made to this effect)</i> 	<p>I still recommend the amendments to TANK POL 21 outlined in my EIC.</p>
<p>Schedule 28</p> <ul style="list-style-type: none"> Amend TN Priority Maps 3 to align with Schedule 28 thresholds. A new Planning map for TN Yield is contained in Appendix 2 2. Insert new Schedule 28 Planning Map showing the priority catchments for total phosphorous A new Planning map for TP Yield is contained in Appendix 2. <p>In Schedule 28:</p> <ul style="list-style-type: none"> Add reference to modelling at the end of item 2 3. Delete “to the estuary” in item 3 4. Insert new Schedule 28 Planning Map for TP 5. Insert new item 6 for TP 6. Insert new line for TP priority in the Table in Schedule 28. 	<p>Refers to para 45ff of EIC.</p> <p>I accept the recommendation of the s42a addendum author to remove the TN concentration priority map.</p> <p>However, as per my EIC, I recommend a DIN concentration and a DRP concentration priority map in place of the TN yield and TP yield priority maps, respectively.</p> <p><i>Note: This has been subject to expert conferencing and a Joint Witness Statement will be provided to the Commissioners by HBRC.</i></p>
<p>Schedule 30 – Catchment Collectives</p> <ul style="list-style-type: none"> Insert reference to property in respect of membership of a collective in Schedule 30 and clarify reference to the applicable catchment. 	<p>Refers to para 95-97 of EIC.</p> <p>I support the recommendations of the s42A addendum author – the scale at which catchment collectives can operate has been clarified.</p>
<p>Schedule 28, Schedule 30 and Priority Catchments Map 1</p> <p>Schedule 28:</p> <ul style="list-style-type: none"> Replace the Sediment Yield Planning Map 1 with a new map based on updated SedNet information. This Schedule 28 Planning Map 1 is contained in Appendix 2. 	<p>Refers to para 48-60 of EIC.</p> <p>I support the recommendations of the s42A addendum author – to update the Sediment Yield priority map based on updated modelling and the addition of a separate clause into Schedule 30 Section A with regards to hill slope erosion.</p>

<p>Schedule 30 Section A:</p> <ul style="list-style-type: none"> Separate clause 2.2 (c) (iv) into two clauses with the first ended at 'specified in TANK Pol 11.' Inserting at the end of the next clause ...: "and soil loss from hill country erosion where this can be managed by landowner mitigation" 	<p>I note that with regard to the hill erosion point, the wording in the tracked changes differs from within the body of the S42A addendum report.</p> <ul style="list-style-type: none"> On pg. 16, 'Inserting at the end of the next clause ... "and soil loss from hill country erosion where this can be managed by landowner mitigation"' Compared to in Schedule 30 Section A 2.2 (d)(iv) 'Mass movements of soil <u>and soil loss from hill slop erosion</u>' <p>I prefer the recommendation on pg. 16.</p>
---	--

ECONOMIC AND OVERSEER EVIDENCE – STUART FORD

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>POL TANK 21 – Land use change</p> <ul style="list-style-type: none"> Insert "average" in relation to annual nitrogen loss in the policy and the meanings for nitrogen loss rates and targets. Refer to nitrogen loss in relation to crop rotations, and for completeness add meaning for 'crop rotation'. <p><u>Crop rotation means the systematic planting of different crops in sequence over multiple years within the same growing space or across changing land parcels, and often including a pasture phase.</u></p>	<p>Refers to para 106 of EIC (and Andrew Dooney pg.14)</p> <p>I support the recommendations of the s42A addendum author – the insertion of 'average' and crop rotations as proposed would address these concerns raised in my evidence.</p>
<p>Schedule 29 and Rules TANK 5 and 6</p> <ul style="list-style-type: none"> Insert new condition in TANK Rule 5: "The change in modelled average annual N loss as a result of the land use change is less than 10% (using Overseer or an alternative nutrient budget model approved by the HBRC)". Amend TANK Rule 6 to refer to land use change from low to high leaching risk (not all land use change). A small amendment to the Schedule 29 Table heading and make separate reference to irrigation land use as an activity with variable risk. Delete reference to "the property" in matter 3 of Rule 5. 	<p>Refers to para 98-101 of EIC.</p> <p>I prefer the notified provisions (Schedule 29), as per my EIC.</p>

<p>Glossary (Nitrogen budget)</p> <ul style="list-style-type: none"> Insert definition for nutrient budget. <u>means a calculation that compares plant nutrient demand and supply to assist with appropriate nutrient applications and nutrient management. The budget can be crop specific or at the property scale.</u> 	<p>Refers to para 106 of EIC.</p> <p>I support the recommendations of the s42A addendum author, to include a definition for 'nutrient budget' as proposed – as this reflects the wording I sought be included for a 'nitrogen budget.</p> <p>I also support the following correction of “nutrient loss budget model” in the definition of 'nitrogen loss rate', 'nitrogen loss target' and in Schedule 30 clause 2.3 (a).</p> <p>However I do not agree with the change sought to Schedule 30 clause 2.3 (b) - I prefer the tracked changes in Appendix A of Andrew Dooney's EIC, as it more consistent with the description of what a nutrient budget is and how it would be used.</p>
---	---

WATER QUANTITY EVIDENCE – GILLIAN HOLMES

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>Definition of Actual and Reasonable Use</p> <ul style="list-style-type: none"> Amendment to retain 'maximum rather than average' 	<p>Refers to para 102 of EIC (and Andrew Dooney para 139).</p> <p>I support the recommendations of the s42A addendum author – my evidence seeks to refer to maximum, rather than average.</p>
<p>Definition of Actual and Reasonable Use</p> <ul style="list-style-type: none"> Does not recommend further changes to PPC9. Refers to evidence of Dr Kozyniak. 	<p>Para 106-107 of EIC.</p> <p>I accept the recommendations of the S42A addendum author – on the basis that the key aspect of the change to the definition that I recommended in my EIC (maximum rather than average) is recommended above.</p> <p>The remaining changes which I sought in EIC would further improve the definition in my opinion, however are minor.</p>

<p>Volumes for permitted activities, including rootstock</p> <ul style="list-style-type: none"> • Recommends amending Rules TANK 7 and 8 to more clearly account for the previously permitted water takes in RRMP Rules 53 and 54. 	<p>Refers to para 90 of EIC</p> <p>I support the recommendations of the s42A addendum author.</p>
--	--

GAP EVIDENCE – DAMIEN FARRELY

SUMMARY OF S42A ADDENDUM COMMENTARY ON EVIDENCE	RESPONSE TO S42A ADDENDUM
<p>TANK POL 24, Schedule 30 Industry Programmes</p> <ul style="list-style-type: none"> • Insert into Schedule 30 Section C a requirement for information to be collected and reported to council in a format to be specified by Council in consultation with the industry group. • Amend the auditing requirement in Schedule 30 so that it allows for less frequent auditing for low risk land use systems and TANK POL 24 so that it enables third party auditing. 	<p>Refers to para 93, 96 of EIC</p> <p>I support the recommendation to edit 2.1 of Section C: Industry Programmes section – this is similar to what I sought in my evidence.</p> <p>I do not support the new section proposed titled ‘Information and Reporting’</p> <ul style="list-style-type: none"> • The expectations are not outcome focuses and should instead be by who is in the programme and meeting the requirements. The requirements exceed what is required of an individual. • I accept clauses 4.3 and 4.3 <p>I support the recommendation to amend Section 5 (Audit) of Section C: Industry Programmes section – this is similar to what I sought in my evidence.</p> <p><i>(I note for completeness that my EIC recommended a re-order of Schedule 30 to be more user-friendly, this was not specifically addressed in the S42A addendum).</i></p>



Proposed Plan Change 9

**TŪTAEKURĪ, AHURIRI, NGARURORO
AND KARAMŪ (TANK) CATCHMENTS**

21 June 2021

Nicole Buxeda – Legal submissions

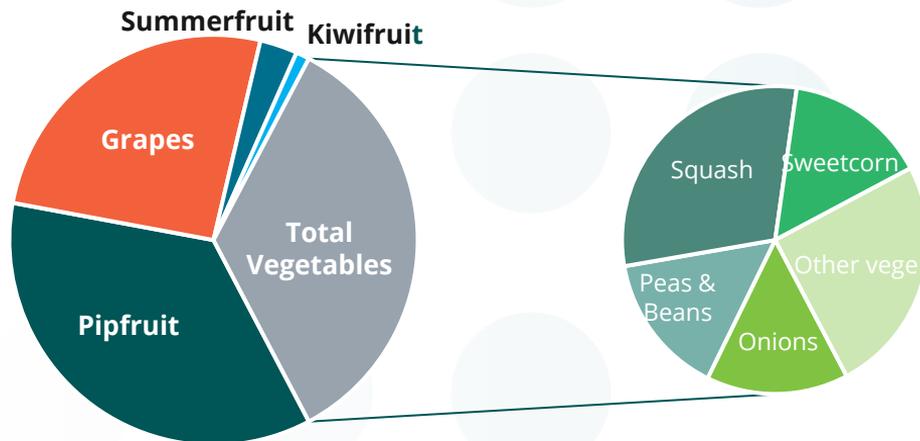
- Scope of submissions and evidence
- National Policy Statement for Freshwater Management 2020
- Importance of horticulture within NPSFM 2020
- Assessment of HortNZ's changes sought
- PC9 going forward into the future

Michelle Sands - HortNZ

For the most part HortNZ supports PC9.

However we do seek a number of refinements to better support horticulture - an important land use on the Heretaunga Plains.

Irrigated horticultural land area in TANK catchments



Michelle Sands - HortNZ

Water quantity

- Support **transfers** and recognition of the value of the Heretaunga Plains.
- Support **rootstock survival water** provided for as a PA.
- **Water harvesting and augmentation** important to support existing and new irrigation.
- **Source water protection** – important these consider existing land use

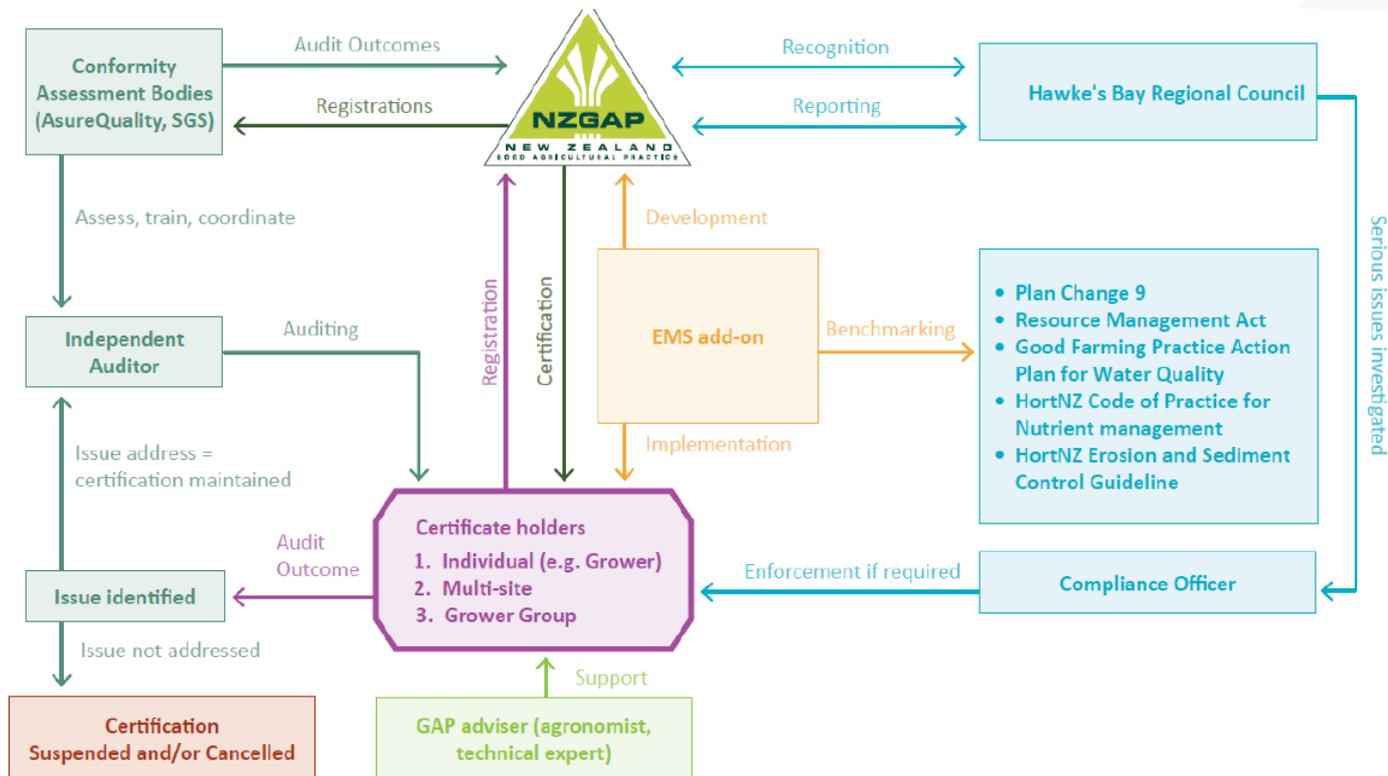
Water quality

- Support collective and individual Freshwater Farm Plans – urge decision makers to align these requirements with **GAP schemes**.
- Support the S42A addendum changes to recognise land use change can have benefits for **climate change**
- Te Mana O Te Wai and **food security**

Damien Farrelly - NZ GAP

- Overview of **NZ GAP Environment Management System (EMS)** as a means of providing audited Farm Environment Plans.
- **Schedule 30** – delivery, information and reporting, and auditing
- Further changes could make the schedule more user-friendly and more consistent.
- **Recognition of NZGAP EMS** in other regions and seeking recognition under Part 9A RMA.

Damien Farrelly - NZ GAP



Catherine Sturgeon - Water Quality

- I support the S42 Addendum recommendations to use consistent terminology such as 'target attribute states', removal of the TN concentration priority map, update the sediment yield priority map, and inclusion of hill slope erosion provisions in Schedule 30. I support the discussion that priority catchment maps should be relabeled '**priority areas**'.
- Importance of 'a line of sight' between actions and priorities on farm – **linking to water quality in the catchment** (not just the variables that are easiest to model)
- I recommend **DIN and DRP concentration maps**, in place of TN yield and TP yield maps. This has been outlined in the Water Quality Joint Witness Statement.
- **Multi-contaminant approach to POL TANK 21**

Gillian Holmes - Water Quantity

- **Transfers** – I support the use of transfers and re-allocation within limits from an effects perspective.
- **'Actual and Reasonable' definition** – support the S42A addendum changes (to reinstate 'maximum'), there are other minor changes that could be made would could also improve the definition.
- **Minimum flows & rootstock**– support minimum flows, contingent on rootstock survival water being clearly provided in Rules TANK 7 and 8 (as is recommended in S42A Addendum).

Stuart Ford – Economics and Overseer

- **Water reliability** – important for economic performance, will require augmentation in the future.
- **Transfers** – economic importance of transfer within versatile land.
- **Rootstock survival water provisions,**
- **N loss from Horticulture.**
- **Crop Rotation,** importance.
- **Land Use Change** – prefer notified Schedule 29 approach

Andrew Dooney - Planning

- Support the general approach of PPC9, could be improved by clarifying several issues including:
 - **Water security** and the water allocation framework
 - **Assessment of water quality effects** across all contaminants
 - **Definition of 'farm'** – support S42A addendum recommendation
 - **N loss assessment and crop rotation** for CVG – support S42A addendum recommendation
 - **Land use change**
 - **Freshwater Farm Plans**, Industry Schemes and Collectives



HAWKE'S BAY
Fruitgrowers'
ASSOCIATION

Richard Pentreath

Hawkes Bay Fruit Growers Association



A teal circular graphic is positioned on the left side of the image, partially overlapping the text. The background features a close-up of several red onions with their roots, and a white flower is visible in the upper right corner.

Scott Lawson

Hawkes Bay Vegetable Growers
Association

A teal circular graphic is positioned on the left side of the image, partially overlapping the text. The background features a close-up of several red onions with their roots, and a white flower is visible in the upper right corner.

Scott Lawson

Hawkes Bay Vegetable Growers
Association