

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2017-AKL- 000097

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under Clause 14(1) of the First
Schedule of the Act in relation to the
Proposed Plan Change 1 to the Waikato
Regional Plan

BETWEEN **DairyNZ Limited**

Appellant

AND **Waikato Regional Council**

Respondent

**NOTICE OF WISH TO BE
PARTY TO PROCEEDINGS PURSUANT TO
SECTION 274 RESOURCE MANAGEMENT ACT 1991**

To: The Registrar

Environment Court

Auckland

1. Horticulture New Zealand ("**HortNZ**") wishes to be a party pursuant to section 274 of the Resource Management Act 1991 ("**RMA**") to the following proceedings:
 - (a) *DairyNZ Limited v Waikato Regional Council* (**ENV-2017-AKL 000097**) being an appeal against decisions of the Waikato Regional Council on the Proposed Plan Change 1 to the Waikato Regional Plan.
2. HortNZ made submissions and further submissions on the Proposed Plan Change 1 (submitter number 73801).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be adversely affected by the proposed relief sought by the Respondent
4. HortNZ is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. HortNZ is interested in the whole proceedings, noting particular interest to the points set out in the attached table.
6. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Lucy Deverall

Advisor, North Island, Natural Resources and Environment
Horticulture New Zealand

29 September 2020

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| Solicitor on the record | Helen Atkins | Helen.Atkins@ahmlaw.nz | (09) 304 0421 |
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Advice

If you have any questions about this notice, contact the Environment Court in Auckland.

Dairy NZ Ltd v Waikato Regional Council ENV-2020-AKL-000097

| Provision appealed | Relief Sought | Support / Oppose | Reason |
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| Objective 2; Table 3.11-1 | <p>That Objective 2 and Table 3.11-1 and associated explanatory text be amended to clarify what is expected to be achieved by PC1, including consideration of time lags between what happens on the land and what is measured in the water.</p> <p>That Objective 2 and Table 3.11-1 be revisited iteratively with consideration of other appeal points in relation to the scope and efficacy of policies and methods that apply to likely improvement in sediment, phosphorus and E.coli.</p> <p>Amend to read: <i>Progress is made over the life of this Plan towards the restoration and protection of the health and wellbeing of the Waikato and Waipa River catchments in relation to <u>actions put in place and implemented for nitrogen, phosphorus, sediment and microbial pathogens being sufficient to achieve water quality improvements as indicated by the short-term numeric water quality values in Table 3.11-1 being met no later than 10 years after Chapter 3.11 of this Plan is operative.</u></i></p> <p>Retain explanatory text in Section 3.11.6 that clarifies that short-term water quality attribute states will not be used as receiving water limits for the purpose of granting resource consents for Farm Environment</p> | Neutral | HortNZ need to be included in discussions on any changes to the plan change in order to implement the 20% reduction |

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| | Plans or assessing compliance with those consents. | | |
| Policy 1 | Amend Policy 1(c) to read: <i>Enabling, through permitted activity rules, low density farming and horticultural activities (not including commercial vegetable production), with low risk (individually and cumulatively) of diffuse discharges of nitrogen, phosphorus, sediment and E. coli contaminants to water bodies, requiring resource consents for all other activities</i> | Oppose in part | HortNZ understand the definition of low intensity farming to be that which meets the low NLR set out in Table 1, Schedule B. HortNZ believe further discussion is required on consequences of proposed new wording. |
| Policy 2 | Apply policy 2 to CVP | Oppose in part | Policy 3 provides for commercial vegetable production and Policy 4 and the rule framework ensure commercial vegetable production activities are required to meet Schedule D2. |
| Policy 3 | Amend to include: - A provision mirroring Policy 2c within Policy 3; and - The specific recognition of the benefits of the activity (Policy 3d) within in Policy 2 (or alternatively deleted from Policy 3) to provide a comparable policy framework. Adding to Policy 3 a requirement to demonstrate that, where new land is to be brought into vegetable production, discharges of diffuse contaminants would be no greater that the activity displaced (or, where that cannot be demonstrated, that offsetting of additional contaminants is undertaken on another site within the same sub catchment and preferably the same water body). | Oppose | HortNZ's evidence clearly demonstrates the diffuse discharge effects, and the positive contributions of any new CVP within specified areas limits. The area limits already demonstrate benefits of landuse change and are themselves are an offset so this is already built into the rule framework. Further requirements for offsetting and compensation can be assessed through Policy 5. Therefore, the suggested changes to Policy 3 are not necessary as the relief sought is already built into the rule. |

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| Policy 4 | <p>Amend Policy to:</p> <ul style="list-style-type: none"> - Require the initial assessment of the intensity of farming activities and nitrogen loss risk of farms by reference to either the NLLR or the stocking rate of the individual property; - Establish thresholds of Low, Moderate and High risk (using NLLRs and, as an alternative, broadly corresponding stocking rates) for the management of farming activities; and - Require appropriate information to demonstrate the NLLR or an appropriate stocking rate be included within FEPs. <p>Insert new subparts for:</p> <ul style="list-style-type: none"> - New requirement in respect of <i>all</i> FEPs, that the annual monitoring of on-going N loss risk to be undertaken to demonstrate that (at minimum) nitrogen loss risk is not increasing over time. - New requirement for independently certified FEPs for all farms. | Support in part/ Oppose in part | Support need for clarity on the management, monitoring and application of NLR's. HortNZ would oppose any requirement for FEPs to be prepared by CFEPs. |
| Rule 3.11.4.5 | Amend Rule 3.11.4.5 to insert appropriate thresholds which ensure that CVP with high contaminant loss are subject to restricted discretionary activity consent. | Oppose | Controlled activity status is appropriate given the specified matters of control and standards/conditions, combined with the FEP process. |
| Rule 3.11.4.7 | <p>Amend to make farming activities Restricted Discretionary if:</p> <ul style="list-style-type: none"> - Stocking rate exceeds [number to be determined] stock units per hectare; or - NLLR is 'High' according to Table 1 of Schedule B. <p>Require any FEP to be prepared by certified farm planner.</p> | Oppose | HortNZ would oppose any requirement for FEPs be prepared by CFEPs. |
| Rule | Changes to rule 3.11.4.8 either to amend it to be a non-complying rule | Oppose | HortNZ's evidence demonstrated the |

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| 3.11.4.8 | consistent with other farming activities seeking expansion, or include clear requirements for conversion of land to CVP only where it can be demonstrated that the loss of nitrogen and sediment would be no greater and that there would only be a negligible increase in phosphorus and that offsetting of any additional contaminant loss shall apply to the extent it is not possible on land to be converted. | | <p>need for growth and impact of growth on water quality within specified area limits. The rule incorporates offsetting and compensation through application of limits and any consent would be subject to Policy 5. The area limits, combined with the wider policy framework and FEP process ensures that a Discretionary activity status is appropriate.</p> <p>Limiting growth until existing CVP is consented will have significant implications on the supply of fresh vegetables with ongoing implications for current and future health and wellbeing of individuals and communities.</p> |
| Rule 3.11.4.9 | <p>Amend so that the following activities are non-complying:</p> <ul style="list-style-type: none"> - Any activity that does not have a certified FEP that is otherwise required to have an FEP; - Any activity that increases its N loss from 'Low' or 'Moderate' to High'; - Any activity that increases its stocking rate to a level above stocking rate of [to be determined]. | Oppose in part | HortNZ does not support requirement for FEPs be prepared by CFEPs. Greater certainty is required around the reporting and management of NLRs before seeking any changes in NLR to be non-complying. Otherwise there are likely to be unintended consequences. |
| Schedule B | <p>Amend by:</p> <ul style="list-style-type: none"> - Recalculating the 'Low' leaching threshold to be based on the 50th percentile of dairy farm leaching and adding further columns to display the comparable stocking rate thresholds; | Neutral | HortNZ is interested in any conversations relating to recalculating of NLR's due to potential impacts on the industry. |

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| | <ul style="list-style-type: none"> - recalculating the 'Moderate' leaching threshold to capture those farms between the 50th and 75th percentiles of dairy farm leaching and adding further columns to display the comparable stocking rate thresholds; and - Including a mechanism in Schedule B to ensure that, as Overseer is updated over time, the values in Table 1 are adjusted so that they continue to represent the 50th and 75th percentiles of the dairy leaching as at 2018. | | |
| Schedule D2 | <p>Delete the word minimise where it appears in Schedule D2.</p> <p>Replace the goals and principles of Schedule D2 with the well-known Industry Agreed Good Farming Practices (GFP), complemented as necessary with additional detail from the associated GFP guidelines and other specific matters as may be relevant to the Waikato context. Provide clarity over the requirement that will apply to on-going monitoring and reporting of nitrogen loss risk. This should include provision for use of alternative (to Overseer) risk estimation tools for any farming activity.</p> | Neutral | HortNZ supports the use of industry approved good management practice but also supports a goals and principles approach which allows for more flexibility in responding to individual on-farm challenges. |