

19 March 2024.

Hon Penny Simmonds Minister for the Environment

Hon Todd McClay Minister for Agriculture

Hon Nicola Grigg Associate Minister Horticulture

Parliament Buildings ‘

WELLINGTON 6011

Dear Minister Simmonds, Minister McClay and Associate Minister Grigg,

PERMITTED ACTIVITY STATUS FOR COMMERCIAL VEGETABLE PRODUCTION

- 1 This letter proposes that the government progress an RMA amendment to achieve a permitted activity for discharges from Commercial Vegetable Production (CVP) as a priority in 2024.
 - 1.1 The permitted activity status for commercial vegetable production would apply to existing CVP and expansion of CVP.
 - 1.2 The environmental effects would be managed with a permitted activity standard implemented through certified freshwater farm plans (FWFP) and including additional requirements for all CVP within catchments that are below the National Policy Statement for Freshwater Management (NPSFM) national bottom lines for nitrogen attributes.
 - 1.3 FWFP regulations, and in particular the ministers standard, would provide an equivalence process for industry assurance programmes aligned with the International Organisation for Standardisation (ISO) framework, as well as an equivalence process for other programmes.

Relation to government priorities

- 2 This proposal relates to coalition agreement priorities to amend the RMA to allow farmers to farm and improve Farm Environment Plans, so they are more cost-effective and pragmatic for farmers.
- 3 This proposal specifically relates to the National Party Election Policy: Primary Sector Growth Plan. HortNZ agrees with the intent of the Primary Sector Growth Plan National Environmental Standard (NES) CVP proposal but recommends a different approach.
- 4 Our main concern with the Primary Sector Growth Plan NES CVP proposal is related to the proposed requirement for CVP expansion in catchments that are below the

bottom lines for nitrogen attributes to obtain consents¹. We support requiring CVP to do more in catchments with water quality below NPSFM national bottom lines for nitrogen attributes. However, we consider the approach of requiring consent for CVP expansion in these catchments could have unintended consequences as outlined below:

- 4.1 It is challenging to practically differentiate between “existing” CVP that has rotated onto new land, and “expansion”. This is a key issue that has arisen in the Waikato Plan Change 1 (PC1) and Manawatu-Whanganui Plan Change (PC2)². The Primary Sector Growth Policy NES CVP proposal risks treating normal CVP rotation as “expansion” and therefore requiring existing CVP that has rotated onto new land to obtain consent.
- 4.2 The sector is structured such that when one grower exits and another enters, the new grower does not necessarily buy the previous growers land, they simply take up market share of the production. In plan changes such as Waikato PC1, Manawatu-Whanganui Plan PC2 and Canterbury PC7 where grandparenting approaches for CVP have been developed, the “existing” allocation is to a business rather than to land. HortNZ has supported this approach in these plan changes to respond to the rotational nature of CVP. However, this approach to grandparenting creates another issue where the allocation to “existing” CVP is lost when businesses change. The Primary Sector Growth Plan NES CVP proposal risks treating changes in operators as “expansion” and subjecting existing CVP to a consenting framework.
- 4.3 CVP for the domestic market may need be located in catchments that have nitrogen below the bottom lines, due to the specific soils and climate required to grow fresh vegetables year-around. The consenting regimes for “expansion” in the Waikato PC1, Canterbury PC7 and Manawatu-Whanganui PC2 are constraining. Economic evidence suggests no expansion of CVP will occur in these catchments, because it is too costly for growers to expand and meet the consented conditions required under these plans³. If a similar consenting regime was required under the Primary Sector Growth Plan NES CVP proposal, then CVP would not expand to meet domestic demand, and would likely contract due to the issues raised in paragraph 4.1 and 4.2 above. Therefore, the Primary Sector Growth Plan NES CVP proposal risks driving reduced vegetable production, increased vegetable prices, and contributing to an increase in the cost of living for New Zealanders.

¹ The policy also suggests expansion of fruit production in catchments with nitrogen attributes below the bottom would be required to gain consents. This is problematic as fruit production has the lowest water quality impacts of all farming activities, and generally landuse change to fruit production would be expected to result in improved water quality outcomes.

² appeals under sch 1, cl 14(1) against the decision of Manawātū-Whanganui Regional Council on Plan Change 2 to the One Plan. statement of evidence of Dr Charlotte Drury (planning) on behalf of horticulture New Zealand 13/10/23 statement of reply evidence of Christine Foster on behalf of Manawātū-Whanganui regional council 13/11/2023

³ env-2020-akl-0008 statement of evidence of Stuart ford (economics and farm systems) on behalf of horticulture New Zealand

- 4.4 The Party Primary Sector Growth Plan NES CVP proposal, would create a stricter regime for CVP than is currently in place in many parts of New Zealand, and while the industry supports an NES for CVP, that support is predicated on the NES CVP being workable. It is very likely that strong objection would be raised by the vegetable sector when growers came to understand the implications of the proposed wording.
- 5 The amendment we have proposed to the RMA could alternatively be progressed as an NES. In our opinion progressing this policy as an amendment to the RMA is more efficient than progressing this policy as an NES, but both methods would be effective.

Background

- 6 The interpretation the NPSFM 2014, has resulted in the development of regional rules that make CVP very difficult to consent, in Waikato, Manawatu-Whanganui and Canterbury regions.
- 7 The rules developed in these plans have been subject to extensive appeal and plan changes⁴. Currently Waikato PC1 and Manawatu Whanganui PC2 are before the Environment Court. The council's proposed approach in both regions will result in a reduced area of existing CVP and an extremely difficult consenting framework for expansion of CVP. These environment court decisions will be made this year, and unless these decisions are appealed to the high court, these plans will become fully operative, and create considerable constraints for vegetable production, for approximately 40%⁵ of New Zealand's supply of fresh vegetables.
- 8 The consequences of the unworkable regulation of CVP are very tangible and are of public interest. New Zealand cannot import sufficient fresh vegetables to meet our domestic demand.⁶ If growers are prevented by freshwater regulations from growing sufficient vegetables for the New Zealand population, then the New Zealand population's health will suffer, with measurable costs and consequences⁷. When poor weather strikes, the reduced resilience in the national vegetable growing system, will leave New Zealanders exposed to vegetable shortages and fluctuations in prices that contribute to an increased cost-of-living.⁸

Environmental impacts

- 9 CVP like all farming activities has environmental risks and contributes to cumulative environmental effects. The localised environmental risks can be managed through the application of good management practices and regulated with FWFPs. The cumulative effects of CVP can be managed through the limit setting process in the NPSFM.

⁴ HortNZ appealed Waikato PC1 to Environment Court, Canterbury PC7 Plan Change was required to address CVP rules, HortNZ appealed the One Plan to the High Court on the basis of CVP rules, PC2 to address CVP rules is currently in Environment Court.

⁵ Both regions contribute approximately 20% of New Zealand's supply of fresh vegetables, with Waikato also growing 30% of NZ onions largely for export.

⁶ Agchain 2023 Sensitivity of Domestic Food Supply to Loss in Vegetable Growing Production in Specified Vegetable Growing Area. Report for MfE.

⁷ [The-health-and-health-system-cost-impacts-of-increasing-vegetables-prices-over-time.pdf \(hortnz.co.nz\)](https://www.hortnz.co.nz/the-health-and-health-system-cost-impacts-of-increasing-vegetables-prices-over-time.pdf)

⁸ <https://www.stats.govt.nz/topics/food-price-index>

- 10 CVP has lesser environmental risks than intensive winter grazing and is less than one quarter of the scale compared with intensive winter grazing nationally⁹. The effects of intensive winter grazing are managed as a permitted activity with a FWFP under the NES Freshwater. The localised effects of CVP can be managed with a FWFP, without causing significant adverse environmental effects.
- 11 CVP has very high rates of adoption of the NZGAP Environmental Management System (NZGAP EMS)¹⁰. 90% of CVP area is registered with the scheme. The NZGAP EMS is a robust risk-based farm planning system, drawing on industry research and codes of practice with farm plans subject to audit.
- 12 CVP has not expanded in New Zealand over the past 10 years and has likely contracted¹¹. There is a need for CVP to expand to keep up with population demand, but this expansion is off a small footprint and can be accommodated within environmental limits¹².
- 13 There is an opportunity for CVP export crops (onions and process crops) to expand more¹³, but these crops can be grown integrated with arable and pastoral farming in more extensive rotations, that have similar nitrogen leaching rates to pastoral farming.
- 14 CVP is frequently located in catchments with poor water quality. These catchments have poor water quality for a range of reasons. While CVP contributes the water quality problems, it is often not the dominant contaminant source.¹⁴.
- 15 The Specified Vegetable Growing Area (SVGA) exception set-up a trade-off between water quality outcomes and vegetable supply, this created unnecessary tension.
- 16 An approach where consents are required for CVP expansion in the catchments with nitrogen attributes below the bottom lines, is unlikely to be effective, because significant reductions in nitrogen losses from CVP cannot be achieved without reducing vegetable production, and domestic vegetable production cannot be sufficiently replaced with imported produce¹⁵. The gross margins for CVP are such that it cannot support a reduction in marketable crop yield.¹⁶
- 17 For catchments that are below the bottom lines for nitrogen attributes, the FWFP requirement to account for catchment context will drive growers to prioritise reducing nitrogen losses as much as possible. In addition, in these catchments, we recommend an approach that requires growers to invest in catchment action (for example, contributing to future phases of the Arawhata Wetland in the Horowhenua), or catchment research (for example, participating in Te Ahikawariki Vegetable Centre of Excellence, recommended though the Pukekohe Integrated Catchment Management Plan). This approach creates an incentive for growers to operate in catchments with

⁹ 222,697 ha of intensively grazed forage nationwide in 2021. This compares with an estimate of 40,000 ha of CVP. https://infocouncil.aucklandcouncil.govt.nz/Open/2022/08/RUR_20220805_AGN_10920_AT_files/RUR_20220805_AGN_10920_A_T_Attachment_89696_1.PDF, <https://unitedfresh.co.nz/technical-advisory-group/fresh-facts>

¹⁰ https://www.nzgap.co.nz/NZGAP_Public/Programmes/Environment_Addon/NZGAP_Public/Programmes/Environment_Addon.aspx?hkey=ff760aa0-c86d-4b8e-b929-c62701395a86

¹¹ Approximately 50,000 Ha t 2013 and 40,000 Ha in 2023. <https://unitedfresh.co.nz/technical-advisory-group/fresh-facts>

¹² ENV-2020-AKL-0008 STATEMENT OF EVIDENCE OF Gillian Holmes (Water Quality) on behalf of Horticulture New Zealand

¹³ <https://www.onionsnz.com/about-onions-nz/facts-and-figures/>

¹⁴ In Lake Horowhenua catchment CVP contributes 30% of the nitrogen load.

¹⁵ Agchain 2023 Sensitivity of Domestic Food Supply to Loss in Vegetable Growing Production in Specified Vegetable Growing Area. Report for MfE.

¹⁶ PerrinAg 2023: Horticulture Typology Modelling for the FWMT prepared for Auckland Council and HortNZ

lesser water quality pressure, but better acknowledges that those catchments where vegetable production is currently located are likely to remain important for future vegetable production.

Summary

- 18 In the Appendix to this letter, we have proposed draft provisions for an RMA amendment and amendments to the FWFP ministers standard and NSPFM.
- 19 This letter summarises the issue and HortNZ's assessment of a proposed approach to address this issue, we acknowledge there are other options, that may also address the issues raised.
- 20 HortNZ has developed water quality, farm systems, economic and planning evidence to support our assessment of workable provisions for CVP. We welcome the opportunity to work with MPI and MfE officials to support the regulatory assessments with detailed evidence and case studies, and further explanation of the unintended consequences of ill-designed regulation of CVP.

Yours sincerely

Michelle Sands

General Manager Strategy and Policy

Horticulture New Zealand

Appendix – Draft Wording for Proposed Amendments

RMA Amendment

- 1 The section could be drafted similar to the below and would likely be located after section 70 of the Act.
 - 1.1 *Rules relating to the discharges to water or land from Commercial Vegetable Production.*
 - 1.1.1 *Despite section 15 and section 70, discharges to land and water from Commercial Vegetable Production should be regulated as a permitted activity provided that all Commercial Vegetable Production over 5 ha is managed with a Certified Freshwater Farm Plan in accordance with Part 9A.*
 - 1.1.2 *In catchments where the nitrogen related attributes are below the NPSFM bottom lines the following additional measures must also be included within the certified freshwater plan.*
 - 1.1.2.1 *Demonstrate participation in research to reduce water quality impacts of Commercial Vegetable Production, or*
 - 1.1.2.2 *Demonstrate participation in catchment scale projects to improve environmental outcomes.*
 - 1.1.3 *This section, prevails over any CVP rules and policies within Regional Plans, and has immediate effect.*

Freshwater Farm Plan Regulation and Ministerial Standard

- 2 HortNZ supports a review of the FWFP regulations, they are currently overly complex and constrain the degree to which industry assurance programmes can meaningfully deliver FWFPs that meet the purpose of the RMA Part 9A.
- 3 217KA of the RMA provides the ability for regional councils to approve industry organisations to provide certification and/or audit services, with the criteria for approval established in the ministerial standard.
- 4 HortNZ seeks that the ministerial standard provides two pathways for approval:
 - 4.1 An equivalence approval pathway for an industry assurance programme not operating under an ISO accredited framework, and
 - 4.2 An equivalence approval pathway for an industry assurance programme operating under an ISO accredited framework
- 5 Approval of programmes not operating under an ISO accredited framework would require a Regional Council, or a national oversight body within Ministry for the Environment, to assess and approve industry organisations to deliver audit and certification services. As a non-accredited programme, the regional council or national oversight body would need to first

undertake an assessment of the industry assurance programme against an agreed set of criteria within the ministers standard for FWFP content and/or process for audit and/or process for certification as achieving the purpose of Part 9A.

- 6 For the equivalence approval pathway for industry assurance programmes operating under an ISO accredited framework, there could be a simpler approach outlined in the ministers standard. Suggested wording below:

6.1 Regional Councils, or a national oversight body within Ministry for the Environment, may approve industry organisations to deliver audit and certification services where the programme (FWFP content and/or process for audit and/or process for certification) is ISO accredited (e.g. by JAS-ANZ) as achieving the purpose of Part 9A.

- 7 Alternatively, this issue could be addressed in the RMA Part 9A or in the FWFP regulations, if they were to be revised.

National Policy Statement for Freshwater

- 8 No amendments to the NPSFM are required before progressing the proposed RMA amendment for CVP, but future directly amendments should address the SVGA policy, and the freshwater values associated with food production.

- 9 If the RMA CVP amendment was progressed as proposed, the SVGA policy would not be required. If consent for CVP expansion in catchments below bottom lines was progressed, it is likely an exceptions framework would be required in the NPSFM, because many of the catchments with natural conditions to support vegetable production have poor water quality.

- 10 A compulsory national freshwater value for food production should be added to Appendix 1A, and could be worded as follows:

10.1 Abstractions and discharges that support food production and including enabling the supply of fresh fruit and vegetables to support the health of the nation.