

**BEFORE THE HEARING COMMISSIONER APPOINTED BY THE TE TAI POUTINI PLAN
COMMITTEE**

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

AND

IN THE MATTER of hearing of submissions on Te Tai o Poutini (West Coast
Combined District) Plan,
Hearing Topic: General District Wide Matters, Part 1
earthworks, light and temporary activities

**INDUSTRY STATEMENT TO BE TABLED BY EMILY LEVENSON FOR
HORTICULTURE NEW ZEALAND**

19 October 2023

INTRODUCTION

1. My name is Emily Levenson. I am an Environmental Policy Advisor at Horticulture New Zealand (HortNZ). I work within the Environmental Policy Team on national, regional, and district planning processes across New Zealand. I have been in this role since January 16, 2023.
2. I hold a Bachelor of Science in Urban Studies and Planning from the Massachusetts Institute of Technology (MIT).
3. I worked in urban planning and environmental policy research for two years at MIT, Manaaki Whenua Landcare Research, and as an independent contractor assisting researchers at the Victoria University of Wellington and Scion.
4. I am an associate member of the Environmental Institute of Australia and New Zealand (EIANZ).
5. Since beginning my role at HortNZ, I have met with growers across New Zealand to better understand their horticultural operations and how resource management issues impact them.

Involvement in the proceedings

6. When I joined HortNZ in January 2023, I took on the role of supporting Te Tai o Poutini (TTOP) Plan proceedings.
7. I have had meetings and conversations with planners and other advisors since April 2023 seeking information to support the HortNZ submission and evidence produced for this process.
8. In preparing my evidence, I have read:
 - (a) The Proposed Te Tai o Poutini Plan
 - (b) HortNZ submission
 - (c) The Section 42a report and appendices
 - (d) The New Zealand National Policy Statement for Highly Productive Land (NPS-HPL)
 - (e) The New Zealand National Policy Statement on Electricity Transmission (NPS-ET)
 - (f) Relevant provisions of the Resource Management Act 1991

PURPOSE AND SCOPE OF EVIDENCE

9. This statement responds to the Section 42A report recommendations regarding Horticulture NZ's submission and further submissions on Te Tai o

Poutini Plan, specifically on the Hearing Topic of General District Wide Matters, Part 1 earthworks, light and temporary activities.

OVERVIEW OF HORTICULTURE NZ

10. HortNZ is the industry body for the horticulture sector, representing growers who pay levies on fruit and vegetables sold either directly or through a post-harvest operator, as set out in the Commodity Levies (Vegetables and Fruit) Order 2013.
11. On behalf of growers, HortNZ takes a detailed involvement in resource management planning processes as part of its national and regional environmental policy response.

RESPONSE TO SECTION 42A REPORT – TOPIC: STRATEGIC DIRECTIONS

Summary of HortNZ's submission and further submissions

12. Table 1 below summarises the provisions on which HortNZ made submissions (and further submissions).

Table 1: Summary of HortNZ submission and further submission interests

Provision	Summary of HortNZ interests	HortNZ Response to S42a	Amendments still sought
EW-P4	HortNZ requested an amendment without use of the word "protect".	Accept the officer's decision	N/a
EW-R1	HortNZ sought that provision was retained as drafted.	Accept the officer's decision	N/a
EW-R2	HortNZ supported a provision for cultivation in the National Grid Yard.	Accept the officer's decision in the S42a but note that the Appendix 1 Recommended Provisions does not match.	Amend Appendix 1 Recommended Provisions to retain EW-R2 2) i) in line with the officer's decision in the S42a report.
EW-R3	HortNZ sought that provision was retained as drafted.	Accept the officer's decision	N/a
EW-R7	HortNZ sought that provision was retained as drafted.	HortNZ seeks clear language that provides for horticultural cultivation.	Amend EW-RX 2.(b) as follows " Ancillary rural earthworks Agricultural or domestic cultivation". Amend the activity status where compliance not achieved as follows "When deciding whether any person is affected in relation

			to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on the National Grid Transpower New Zealand Limited."
LIGHT-O1	HortNZ sought that provision was retained as drafted.	Accept the officer's decision	N/a
LIGHT-P1	HortNZ sought an amendment to enable rural production activities.	HortNZ continues to seek specific reference to rural production activities and to clarify the policy.	Amend LIGHT-P1 to include "(g) Enables rural production activities" and amend part (f) to read "Minimises the adverse effects on Protects ecosystems."
LIGHT-P2	HortNZ sought an amendment to enable rural production activities.	Accept the officer's decision	N/a
LIGHT-R4	HortNZ sought that the nighttime standard be 5 lux instead of 2 lux to enable nighttime harvesting and night loading of produce.	HortNZ continues to seek a limit appropriate for rural production activities.	Amend LIGHT-R4 (b) to allow "10:00pm-7:00am: 5 2 lux".

Horticulture in the West Coast

13. There are a small number of horticultural growers located on the West Coast, including both traditional outdoor growing and indoor covered cropping. Much of horticulture on the West Coast is located near Karamea.
14. Crops include tamarillos, citrus, eggplants tomatoes, and some brassica crops. The most recent Fresh Facts publication reports sweetcorn, indoor salad greens, summer fruit, berry fruit, and other fruits are all also grown in the West Coast.¹ There are over 29 ha in outdoor horticulture and 16,000 m² in covered cropping on the West Coast.²
15. There is potential for future growth, especially in the form of covered cropping which is more protected from adverse weather conditions.

Key issues and outcomes sought

16. Clause 129 (g) of the recently passed Natural and Built Environment Act (NBEA) directs that the national planning framework must provide direction

¹ Fresh Facts 2023: New Zealand's Fresh Fruit & Vegetable Industry.

<https://unitedfresh.co.nz/assets/site/images/images/Fresh-Facts-%E2%80%93-Online-version-2023.pdf>

² Fresh Facts: New Zealand Horticultural Exports 2021. <https://unitedfresh.co.nz/assets/site/Fresh-Facts-2021.pdf>

on certain matters, including enabling the supply of fresh fruit and vegetables.³

17. Having the NBEA specify that the national planning framework must enable the supply of fresh fruit and vegetables is an explicit recognition of the importance of food security. This recognition will ensure that the growing of fruit and vegetables is a key focus in planning decisions across New Zealand.
18. HortNZ seeks policies that allow for appropriate horticultural use of earthworks and light in rural areas to enable the supply of fresh fruit and vegetables.

Earthworks

19. HortNZ seeks an approach to earthworks rules that enables cultivation in appropriate areas.

EW-R2

20. HortNZ supports the reporting officer's decision that it is "appropriate to enable cultivation where potential effect on the National Grid is managed".⁴ We ask that the error in Appendix 1 Recommended Provisions, where the provision regarding cultivation is struck through, is corrected to retain EW-R2 2) i) in line with the officer's decision in the S42a report.

EW-R7/EW-RX

21. HortNZ sought that EW-R7 was retained as drafted. The reporting officer recommended that it was deleted and replaced with EW-RX in response to a submission by Transpower New Zealand Limited.
22. In the new version of EW-R7, temporarily labelled EW-RX, we seek the deletion of the word "domestic" preceding cultivation. "Cultivation" as a standalone term is defined in the National Planning Standards⁵, and it is uncertain what "domestic" adds to its meaning. Agricultural cultivation as a descriptor might mistakenly exclude horticulture.
23. The phrase "ancillary rural earthworks" more accurately captures the disturbance of soil, earth or substrate land surfaces for farming purposes. As described in HortNZ's submission, ancillary rural earthworks includes land preparation, burying infected material that poses a biosecurity threat,

³ Natural and Built Environment Act. [Natural and Built Environment Act 2023 No 46, Public Act 129 National planning framework must provide direction on certain matters – New Zealand Legislation](#)

⁴ Te Tai o Poutini Plan Section 42A Officer's Report General District Wide Matters: Light, Earthworks, Temporary Activities (para 113)

⁵ National Planning Standards, Definitions (p. 56)

irrigation and land drainage, and maintenance and construction of facilities, devices and structures for farming activities.

24. The amendment, "**Ancillary rural earthworks** Agricultural or domestic cultivation" would be more appropriate.
25. HortNZ seeks that rules relating to the National Grid are compliant with the National Policy Statement on Electricity Transmission (NPS-ET) and the New Zealand Electrical Codes of Practice (NZECP). We are supportive of the reporting officer's recommendation that activities that do not meet the standard for Permitted Status are Restricted Discretionary, since a more stringent rule is unnecessary under national direction.
26. In the section on "deciding whether any person is affected in relation to this rule", it would be more appropriate for the Council to give specific consideration to adverse effects on the National Grid than to Transpower in particular, since it is the resource not the operator that should be considered.
27. The amendment should read, "When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on **the National Grid** Transpower New Zealand Limited."

Light

28. Artificial light and lighting are essential for health, safety and security purposes. Many horticultural activities are dictated by weather patterns and seasonal needs. Spraying, for example, needs to occur when there is no wind and no rain forecast. This can mean that spraying activities often need to occur later at night or in the early hours of the morning.
29. The light provisions indicated in the plan must enable a safe working environment in the rural area. Growers are responsible operators who need to consider many factors when needing to conduct operations at night. Health and safety of staff, impacts on neighbours and security are all relevant matters to consider.

LIGHT-P1

30. This policy needs an explicit reference to rural production activities to enable nighttime harvesting, loading of produce and other normal horticultural activities.
31. I disagree with the report author that rural production activities are sufficiently provided for in LIGHT-P1 (a) and (c) because it is unclear if "people and communities" includes rural businesses. The section 42a report author says that it is inefficient plan drafting to refer to specific activities, but LIGHT-P1 (c) refers to road safety specifically. Thus, I think it is appropriate to

add a part (g) "**Enables rural production activities**" or amend (c) to read, "Supports the social, cultural, and economic wellbeing or health and safety of people and communities, including road safety **and rural production activities**".

32. The wording of this policy is confusing, as it starts with positive language ("Provide for the use of artificial outdoor lighting") and then includes sub-clauses that are both uses for lighting and concerns about use of lighting. For instance, it is uncertain what it means to "Provide for the use of outdoor lighting that...protects ecosystems". This implies that the light itself is protecting nature. I recommend that the word "Protect" in part (f) is replaced with "Minimises the adverse effects on", such that the clause is directly related to the outdoor lighting itself.

LIGHT-R4

33. HortNZ sought that the nighttime outdoor light allowance be 5 lux rather than 2 lux as proposed in the TTOP Plan. The proposed lux values are reduced below current provisions of 10 lux without curfew in the Buller District Plan⁶ and 2.5 lux spill on adjoining properties without curfew in the Grey District Plan, which differs from the overall proposed lux restriction in the TTOP Plan⁷. The only limitation on light or glare in the rural zone in the Westland District Plan is that outdoor lighting does not cause traffic hazards on the road.⁸ The TTOP Plan provisions do not take into account the need for light for health and safety for primary production activities.
34. Policy 4 of the NPS-HPL states that, "The use of highly productive land for land-based primary production is prioritised and supported".⁹ It is concerning that primary production might be constrained in by onerous lighting rules in the rural zone, including on highly productive land.
35. Policy 9 of the NPS-HPL also states that, "Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land". An excessive restriction on lighting for the sake of "dwellings on adjoining properties"¹⁰ as suggested by the evidence of Mr. Wilson, who was engaged by the West Coast Regional Council, is an example of reverse sensitivity concerns constraining primary production in the rural zone, including on highly productive land.

⁶ Buller District Plan section 7.9.4

⁷ Grey District Plan, Environment Areas – Rural (p. 125) [Complete District Plan.pdf \(greycdc.govt.nz\)](https://www.greycdc.govt.nz/Complete-District-Plan.pdf)

⁸ Westland District Plan, Part 8.5 Glare (p. 204) [TEST \(westlanddc.govt.nz\)](https://www.westlanddc.govt.nz/TEST)

⁹ National Policy Statement for Highly Productive Land 2022

¹⁰ Statement of evidence of Paul Kimble Wilson, 25 September 2023

36. HortNZ continues to seek an appropriate allowance of 5 lux at night to ensure horticultural workers can safely load produce into trucks and conduct nighttime spraying or harvesting.

Conclusion

37. HortNZ seeks earthworks and light rules that enable horticultural cultivation and allow businesses to achieve health and safety best practices for rural nighttime work.

Emily Levenson

19 October 2023