

**BEFORE THE HEARINGS PANEL
IN CENTRAL HAWKES BAY**

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

AND

IN THE MATTER of the Proposed Central Hawkes Bay District Plan

HEARING STREAM 5

**STATEMENT OF EVIDENCE BY JORDYN LANDERS FOR
HORTICULTURE NEW ZEALAND**

24 AUGUST 2022

SUMMARY

1. This statement addresses Horticulture New Zealand's submission points relating to Hearing 5 on the Proposed Central Hawke's Bay District Plan.
2. The table included as Appendix 1 provides an overview of HortNZ's interests in this topic and response to the Section 42A recommendations.

QUALIFICATIONS AND EXPERIENCE

3. My full name is Jordyn Maree Landers. I am currently employed as a planner at Beca, a role I have been in since July 2022.
4. I was previously employed an Environmental Policy Advisor at Horticulture New Zealand (HortNZ) between August 2019 – July 2022. In this role I was involved with regional and district planning processes in regions where fruit and vegetables are grown commercially. Prior to my role with HortNZ, I was employed as an Environmental Planner at GHD.
5. I hold a Master of Planning and a Bachelor of Science from the University of Otago. I am an intermediate member of the New Zealand Planning Institute (NZPI). I have over five years planning experience.
6. In my previous role at HortNZ I involved with the Proposed Central Hawkes Bay District Plan, including:
 - I was also involved with the preparation of HortNZ's submission and further submission on the Proposed Central Hawkes Bay District Plan; and
 - Prepared industry statements of evidence for Hearing Streams 1, 2 and 3 and attended Hearing Stream 3, as HortNZ's representative.
7. This statement addresses HortNZ submission points (and where applicable, further submission points) relating to Hearing 5 on the Proposed Central Hawke's Bay District Plan. I am authorised to give this evidence on behalf of HortNZ.
8. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses (Environment Court of New Zealand Practice Note 2014) and agree to comply with it. This evidence I am presenting is

within my area of my expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

9. In preparing this statement, I have reviewed:
- The following Section 42A reports dated 8 August 2022: Contaminated Land & Hazardous Substances, Natural Hazards & Climate Change, Earthworks, Mining & Quarrying, Subdivision (General).
 - HortNZ's submission and further submission.

SCOPE OF EVIDENCE

10. HortNZ made submissions (and further submissions) on the following topics that are being addressed in Hearing 5:
- Contaminated Land & Hazardous Substances
 - Natural Hazards & Climate Change
 - Earthworks, Mining & Quarrying
 - Subdivision – General
11. The table attached as Appendix 1 provides an overview of HortNZ's submission and further submission points in relation to these topics, and response to the Section 42A recommendations. Specific commentary on relevant matters is provided below.
12. In addition to this statement which addresses HortNZ's interests across the topics, Lynette Wharfe has prepared planning evidence for HortNZ specifically in relation to the definition of 'major hazardous facility'.

RESPONSE TO SECTION 42A REPORT

Topic: Contaminated Land and hazardous substances

Contaminated Land

13. With respect to the contaminated land chapter (CL – Contaminated Land), HortNZ's primary submission point related to inserting a sentence into CL-M1 to reflect the circumstances in which the NES-CS

does not apply (specifically in respect of production land). As summarised in Table 1 (Appendix 1), the Section 42A author accepts in part this submission, and recommends an alternative wording be added to CL-M1. I am comfortable that the wording proposed by the S42A author achieves the intent of the amendment sought by HortNZ, and accordingly support the Section 42A recommendation.

Hazardous Substances

14. In respect of the hazardous substances chapter (HAZS – Hazardous Substances), HortNZ’s submission was generally in support of the overall approach in the notified plan.
15. The approach in the proposed plan, as expressed in HAZS-O1 and HAZS-P4, and summarised in the Section 42A report¹, is to avoid any unnecessary duplication of regulation with the focus of the plan largely on managing major hazardous facilities. I support this approach.
16. The definition of ‘major hazardous facility’ states:
 - b. The following activities are not considered to be major hazardous facilities:*
 - iii. the incidental storage and use of agrichemicals, fertilisers and fuel for primary production activities.*
17. HortNZ made a submission (S81.020) seeking to retain the definition of ‘major hazardous facility’ as notified. In response to other submissions on the definition, the Section 42A author is recommending a number of amendments to this definition.
18. HortNZ’s interest in the ‘major hazardous facility’ definition is in ensuring that the management related to hazardous substances – such as agrichemicals, fertiliser and fuel – which are part of ‘business as usual’ horticultural land use do not inadvertently get captured as a major hazardous facility.
19. Specific evidence in relation to the definition of ‘major hazardous facility’ is provided by Lynette Wharfe.

Topic: Natural hazards and climate change

20. I generally support the S42A recommendations in relation to this topic, specifically the recommendation to include reference to food security in the introduction, the recommendation to accept HortNZ’s

¹ Paragraph 2.2.6, Section 42A Contaminated Land Hazardous Substances

submission on NH-O3 to consider the level of risk posed by a hazard and the amendment to confirm that buildings *and* structures which are listed under BIC 1 or 2a (with reference to NH-APP1) are permitted, as this provides for farm buildings and structures.

21. HortNZ made a submission (S81.067) on NH-P5 seeking that 'areas of significant natural hazard risk' be defined, on the basis that it was unclear what this referred to (and further submitted on the same policy in support of Federated Farmers seeking the focus be on 'habitable' buildings or structures).
22. The S42A recommendation is to amend the phrasing in NH-P5 to instead refer to "*manage activities in areas at significant risk from natural hazards, ...*".² I consider that this wording is preferable as it is clearer that the focus is on significant risk. In effect, the rules are applicable to Fault Avoidance Area, Flood Hazard Area and Tsunami Hazard Area overlays which are mapped. On this basis, I accept the S42A recommendation to reject HortNZ's submission seeking to define 'areas of significant natural hazard risk'.

Topic: Earthworks, mining and quarrying

23. As summarised in Appendix 1, I generally support the S42A recommendations and particularly note support for the recommended amendments to the ancillary rural earthworks definition to specifically exclude cultivation (due to this being excluded from the earthworks definition) and to include works required as a biosecurity response.
24. The S42A author recommends rejecting HortNZ's submission seeking a new policy be added to the Earthworks policy suite, as follows: *'Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, where adverse effects are appropriately managed.'*
25. I agree with the S42A that ancillary rural earthworks is a subset of earthworks (and therefore addressed by the policies applicable to earthworks). However, I consider that as the rule framework does enable earthworks to a certain extent (for example providing for specified earthworks and ancillary rural earthworks as permitted activities subject to conditions), that an 'enable' policy would be an appropriate addition to 'round-out' the earthworks policy. This would acknowledge the benefits of providing for earthworks (however I accept that this would not have to specifically refer to ancillary rural

² Para 5.2.19, Section 42A Natural Hazards

earthworks), such as:

EW-PX *Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, where adverse effects are appropriately managed.*

26. The Earthworks policies (EW-P1 to EW-P7) refer to direction to 'avoid, remedy, mitigate', 'ensure', 'require', 'protect', 'avoid duplication' and 'control'. Whereas the policies specific to Mining, Quarrying and Hydrocarbon Extraction, include in addition to 'avoid, remedy, mitigate' and 'require' directions, 'enabling' policies (EW-P8 and EW-P9). Accordingly, an additional policy such as that above, would be in keeping with the approach in the plan for earthworks.

Topic: Subdivision

27. HortNZ's submissions and further submissions (many of which were addressed in the rural hearing stream) relating to subdivision are largely focused on ensuring that reverse sensitivity (and the rural-resource generally) are key considerations managed at the point of subdivision. As set out in Appendix 1, I consider that the S42A recommendations generally provide for and/or retain these considerations.

Jordyn Landers

24 August 2022

APPENDIX 1: Response to S42A recommendations

Provision	HortNZ submission	HortNZ further submission	Summary of S42A recommendation	Response to S42A
Topic: Contaminated Land & Hazardous Substances				
CL-O1		FS17.32 – Support S110.013 (The Oil Companies)	Accept; <i>'amendment sought to Objective CL-O1 is a minor clarification. I agree the wording as amended is more consistent with how the remainder of this chapter has been written'</i>	Support S42A recommendation.
CL-M1	S81.060 Insert an additional sentence in CL-M1: <u><i>The NES-CS does not apply to primary production land where the land continues to be used for production purposes. Only when the land use changes will the NES-CS apply.</i></u>		Accept in part; <i>'I concur with Hort NZ that it would be of assistance for the wording of Method CL-M1 to reflect that the NES-CS does not apply to production land in certain circumstances'</i> <i>'wording proposed by Hort NZ is not an accurate summary of clause 5(8) of the NES-CS in relation to production land as it does apply to production land where a fuel storage system is being removed, soil under residential buildings being disturbed etc. Therefore, I recommend a more general statement be added to Method CL-M1'</i>	Support S42A recommendation The wording proposed by the S42A author achieves the intent of the amendment sought by HortNZ.
Major hazardous facility	S81.020 Retain definition.		Accept in part; <i>Amendments made in response to other submissions, adding:</i>	Refer to the evidence of Lynette Wharfe which addresses this matter specifically.

			<ul style="list-style-type: none"> • <i>Reference to meat processing, rather than freezing works</i> • <i>(xvii) the storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling, or treatment</i> • <i>(xviii) any facility designated a Major Hazard Facility under the Health and Safety at Work (Major Hazard Facilities) Regulations 2016</i> <p><i>And to the list of exclusions: (x) the incidental storage and use of hazardous substances for emergency service activities</i></p>	
HAZS – Introduction		FS17.33 – Support S110.013 (The Oil Companies)	Accept <i>'I consider the amendments sought by the submitters are appropriate and agree that they more accurately reflect the intent of the chapter, which is to avoid duplication covered by other specific legislation or regulated by the Regional Council, ...'</i>	Support S42A recommendation
HAZS – I1		FS17.34 – Support S110.013 (The Oil Companies)	Accept	Support S42A recommendation
HAZS-O2	S81.061 Retain Objective HAZS-O2		Accept in part; Recommends amendment: <i>Avoid any unnecessary duplication of regulation between</i>	Support S42A recommendation

			<i>the Hazardous Substances and New Organisms Act 1996, <u>Health and Safety at Work Act 2015, Regional Plan, and the District Plan.</u></i>	
HAZS-P1	S81.062 Retain Policy HAZS-P1		Accept;	Support S42A recommendation
HAZS-R1	S81.063 Retain HAZS-R1		Accept in part; Recommends deleting performance standard 'All relevant Standards in the underlying zone are complied with' to align with drafting style elsewhere in the plan.	Support S42A recommendation
HAZS – PXX new policy		FS17.32 – Support in part S121.253 (Federated Farmers)	Accept; Recommend replacing Policy HAZS-P4 with wording similar to the new policy sought by Federated Farmers	Support S42A recommendation
HAZS-M3	S81.064 Amend the reference to NZS8409:2004 to NZS8409:2021.		Accept;	Support S42A recommendation
Natural Hazards & Climate Change				
	S81.067 Add a new definition for 'Areas of Significant Natural Hazard Risk' (part of submission on NH-P5)		Reject; <i>'... I do not support including a definition for 'Significant Natural Risk Area' (sought by Federated Farmers) or equivalent 'Areas of Significant Natural Hazard Risk' (sought by Hort NZ) defined as areas identified as falling with those mapped 'Hazard' overlay areas</i>	Accept S42A recommendation.

			<i>(being the Fault Avoidance Area, Flood Hazard Area, and Tsunami Hazard Area). In my view, such a definition would limit the term to only apply to those hazard areas mapped in the PDP, but clearly those mapped areas are not exclusively the only areas of potentially significant natural risk and it would be inaccurate and inappropriate to indicate so.'</i>	
NH-Introduction	S81.065 Retain risk-based approach to natural hazards. Amend 5 th para of the introduction to include food security as an issue arising from climate change: <i>"Climate change is therefore likely to have significant implications for the District in terms of water shortages and ongoing water security issues and also food security..."</i>		Accept; <i>'I also concur with Hort NZ that food security is a genuine concern as a result of climate change (in terms of food production and distribution), and that the Introduction be amended to include reference to this issue'</i>	Support S42A recommendation.
NH-O2		FS17.38 – Support (Federated Farmers)	Accept in part; <i>'...I do not consider it appropriate to limit the objective to only the community and 'vulnerable activities'. However, I consider the reference in Objective NH-O2 to 'the built environment' is unnecessary and could be deleted, leaving the objective to apply to 'risks to the community', which is a sufficiently broad concept to adequately capture vulnerable activities and the built environment'</i>	Accept S42A recommendation

NH-O3	<p>S81.066 Amend NH-O3 as follows: <i>An increase of risk to people, property, infrastructure and the environment from the effects of natural hazards should be avoided, remedied or mitigated, reflecting the level of risk posed by the hazard.</i></p>		Accept	Support S42A recommendation.
NH-P5	<p>S81.067 Add a definition for 'areas of significant natural hazard risk' as:</p> <ul style="list-style-type: none"> • Fault avoidance area • Flood Hazard area • Tsunami Hazard area 	FS17.37 – Support in part S121.130 (Federated Farmers)	<p>Reject</p> <p><i>'I do not support the amendments sought to relate the policy only to 'habitable' buildings and to delete 'earthworks' from the list of activities to be managed. In my view, erection of 'non-habitable' buildings and structures and earthworks, in areas at significant risk from natural hazards, can also cause property damage and impact on the health and safety of people. The policy would be form part of the consideration when any resource consent process is triggered in an area identified as being at risk from natural hazards...</i></p> <p><i>I agree with Federated Farmers that referring to 'areas of significant natural hazard risk' is unclear, and I therefore recommend using the words 'areas at significant risk from natural hazards',</i></p>	Accept S42A recommendation (refer to areas of significant natural hazard risk' above)
NH-R1		FS17.39 – Support in part S121.136	Reject; <i>6.3.6 In my view, it is appropriate that privately-initiated 'natural hazard mitigation</i>	Accept S42A recommendation

		(Federated Farmers)	<p><i>activities' should be subject to appropriate consideration through a resource consent process, given such works can transfer or create risk off-site. The rule is also consistent with a similar rule in the Hastings District Plan (Rule NH1).</i></p> <p><i>6.3.7 I also consider that the wording of the condition sought introduces a degree of judgement which is inappropriate within a rule in a District Plan – in terms of determining whether a natural hazard risk can be 'reasonably avoided' or not, and in terms of determining whether the works transfer or create 'unacceptable' hazard risk to other people, property, infrastructure or the natural environment.</i></p>	
NH-R2	S81.068 Amend all relevant references in NH-R2 to provide for structures (in addition to buildings): <i>'The building or structure is a BIC 1 or 2a category structure'</i>		Accept;	Support S42A recommendation.
NH-APP1 - -- Building Importance Categories (BIC)	S81.069 Use Schedule A3 from the Building Code as the basis of building importance categories in the Plan.		<p>Reject;</p> <p><i>'... I do not support replacing the content of the Building Importance Category table in Appendix NH-APP1 with the content of clause A3 from the Building Code, as the table in the PDP has been adapted in order to be more reflective of district plan terminology and drafting norms, and the need to provide greater detail and certainty in interpretation when applying rules to it.'</i></p>	Accept S42A recommendation.

Topic: Earthworks, Mining & Quarrying				
Ancillary rural earthworks (primary production)	<p>S81.007 Retain a definition for ancillary rural earthworks, but amend to Remove (a) and (b) as cultivation and harvesting is excluded from the earthworks definition.</p> <p>AND</p> <p>Include: <i>'the burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993'</i></p>		Accept in part – Recommends amendment to delete part of (a) and add the biosecurity response aspect.	Support S42A recommendation – the amendment aligns with the intent of HortNZ's submission
EW – Introduction		FS17.60 – support NZ Pork (42.028)	Accept in part; <i>'I consider inserting the wording sought by NZ Pork into the Introduction of the Earthworks chapter of the PDP appropriately acknowledges that earthworks are also an integral part of primary production – not just a development and extractive activity. ...'</i>	Support S42A recommendation.
New policy	S81.086 Insert new policy,		Reject;	Additional policy sought. Refer to para 25.

	<p><u>EW-PX</u> <u>Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, including ancillary rural earthworks, where adverse effects are appropriately managed.</u></p>		<p><i>I do not consider that the plan lacks policy support for the methods adopted to enable and manage the effects of ancillary rural earthworks, as suggested by NZ Pork and, therefore, I do not consider inclusion of the first policy above, sought by the submitter, is necessary. In my view, 'ancillary rural earthworks' are a subset of 'earthworks' generally, therefore such earthworks are already appropriately covered by the existing policies in the EW – Earthworks chapter. For the same reasons, I do not support inclusion of the second and similar policy above, sought by Hort NZ</i></p>	
EW-P2		FS17.64 - support Federated Farmers (121.074)	Reject;	Accept S42A recommendation
EW-P11	<p>S81.087 as follows: 'To require proposals for new mining, quarrying or hydrocarbon extraction activities to provide adequate information on the establishment and operation of the activity and demonstrate: ... 3. that adequate measures will be used to: <u>h. manage the potential effects of dust on any nearby rural production activities, including for</u></p>		Accept;	Support S42A recommendation.

	<u><i>horticultural land use the effects of dust on produce'</i></u>			
EW-R2	S81.088 Retain – subject to exclusion sought in definition for cultivation (or other consequential amendment).	FS17.65 support Federated Farmers (121.085)	Accept (HortNZ submission point)	Support S42A recommendation.
EW-R5		FS17.66 – support Federated Farmers (121.087)	Reject; S42A recommends retention of Rule EW-R5 as notified	Accept S42A recommendation (subject to any further evidence from Federated Farmers)
EW-R7		FS17.67 - Oppose in part – Centralines Ltd (90.039)	Accept in part S42A recommends a new Assessment Matter – consistent with other chapters recommendations.	Accept S42A – on the basis that the recommendation is consistent with other chapters where this has been addressed.
EW-S2	S81.089 Retain		Accept	Accept S42A recommendation
EW-S5	S81.090 Include reference to HortNZ Erosion and Sediment Control Guidelines for Vegetable Production.		Reject <i>In my view, the HBRC Waterway Guidelines are a well-understood and accepted set of guidelines specific to the Hawke's Bay region, and are applicable to any type of earthworks activities across all sectors. The Hort NZ guidelines for vegetable production are focused on cultivated land compared to earthworks generally, and is focused more on minimising soil erosion and loss as opposed to</i>	Accept S42A recommendation

			<i>protecting waterways. Further, given that 'cultivation' is excluded from the definition of 'earthworks', there is little point in referencing erosion and sediment control guidelines for vegetable production in the Earthworks chapter</i>	
EW-S6	S81.091 Amend EW-S6 to clearly state that ancillary rural earthworks are a permitted activity.	FS17.68 –support Federated Farmers (121.097)	Reject <i>I do not support amendment of Standard EW-S6 to state that 'ancillary rural earthworks' are a permitted activity, as this would be inaccurate. HortNZ appear concerned that cultivation and road and track maintenance are provided for as a Permitted Activity. As identified by Transpower, as further submitter, 'cultivation' is excluded from the definition of 'earthworks', and I refer to my recommendation above to similarly note this in the definition of 'ancillary rural earthworks' (refer paragraph 6.3.5 above). Further, 'Earthworks and vertical holes within the National Grid Yard' are a permitted activity under Rule EW-R5 subject to complying with the specified standards (including compliance with Standard EW-S6 Earthworks and Vertical Holes within the National Grid Yard). Such earthworks revert to Restricted Discretionary Activity status if they do not meet the standards.</i>	Accept S42A recommendation – on the basis of amendments to ancillary rural earthworks definition
Topic: Subdivision – General				

SUB-O1	S81.078 Retain objective.		Accept insofar as minor amendment is recommended to be made to the objective (minor change, remove 'that')	Accept S42A recommendation
SUB-O4	S81.079 Retain principle of SUB-04, but amend to include reference to primary production: Reverse sensitivity effects of subdivision on existing lawfully established activities (including network utilities <u>and primary production</u>) are avoided where practicable, or mitigated where avoidance is not practicable.	FS Oppose in part/Support in part – Kainga Ora (129.070);	Reject; <i>Recommends amendment to: Reverse sensitivity effects of subdivision <u>and its resulting future land use activities</u> on existing lawfully established activities (including network utilities) are avoided where practicable, or mitigated where avoidance is not practicable.</i>	Accept S42A recommendation – on the basis that the amendments to the objective mean it no longer lists specific activities, so by default applies to primary production.
SUB-P1		FS17.61 – Oppose Kainga Ora (129.072)	Reject <i>I do not support Kāinga Ora's request to amend the policy, as I consider that it is unnecessary, and the general nature of the changes requested are already captured in the amendments I have recommended be made to Objective SUB-02.</i>	Accept S42A recommendation
SUB-P8		FS, Oppose– Kainga Ora (129.079)	Accept in part; <i>I recommend that the policy be amended to better reflect what I consider its intention is To encourage innovative subdivision design consistent with the maintenance of <u>purpose, character and amenity values supported and envisaged by the zone provisions.</u></i>	Accept S42A recommendation – as the recommendation reflects the character for the respective zone.

SUB-P16	S81.080 Retain		Accept in part; <i>Recommends amendment To avoid where practicable, or otherwise mitigate, potential reverse sensitivity effects of sensitive activities (particularly residential and lifestyle development) establishing near existing primary production activities (including intensive primary production activities), rural industries, or industrial activities and/or existing public works network utilities.</i>	Accept S42A recommendation
SUB-P17		FS Support in part– Centralines Ltd (90.035)	Accept in part; Recommends new definition for Regionally Significant Infrastructure	Accept S42A recommendation
SUB-P18		FS Oppose – Transpower (79.075) – we do not support the removal of ‘to the extent reasonable practicable’	Accept in part insofar as it is recommended that Policy SUB-P17 and Policy SUBP18 be combined, and Policy SUB-P17 amended.	Accept S42A recommendation – on the basis that the proposed amendments to SUB-P17 (includes a ‘to the extent reasonably possible’ direction) in relation to subdivision design.
SUB-R1		FS Support Hatuma Lime Co Ltd (98.021) –	Reject; <i>I consider that there is no need to amend SUB-R1 to include a new matter of control that would require consideration of potential reverse sensitivity effects from building platforms and/or vehicle access within proximity of the Hatuma Lime Quarry on new lots created in the General Rural Zone.</i> Accept in part;	Accept S42A recommendation

		FS Support in part– Kainga Ora (129.090)	<i>HortNZ (FS17.56) supports in part Kāinga Ora's submission point, as they consider there needs to be recognition that subdivision in the rural area has different constraints from urban. I am uncertain which part(s) of the submission point HortNZ supports in part.</i>	
SUB-R5		FS17.57, support Hatuma Lime	Reject FS	Accept S42A recommendation
SUB-SXX		FS17.58, support in part Kainga Ora	Accept FS	Support S42A recommendation
SUB-S1		FS17.59, oppose James Bridge	Accept FS	Support S42A recommendation
SUB-AMXX		FS17.61, support Hatuma Lime	Reject FS	Accept S42A recommendation
SUB-AM11		FS17.62, oppose Kainga Ora	Accept in part FS	Accept S42A recommendation – consideration of reverse sensitivity is retained (with emphasis on first avoiding), consistent with SUB-O4.