

BEFORE THE NAPIER CITY COUNCIL

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

AND

IN THE MATTER of the Napier City Proposed District Plan
(Stream 2)

**STATEMENT OF EVIDENCE OF DR CHARLOTTE DRURY ON BEHALF OF
HORTICULTURE NEW ZEALAND**

18 NOVEMBER 2024

INTRODUCTION

Qualifications and experience

1. My full name is Dr Charlotte Joesphine Mary Drury.
2. I am the Director of View Consultants Limited. I hold a Bachelor of Science (Geography) and a Master of Regional and Resource Planning from Otago University, and a Doctor of Philosophy from Massey University (School of Agriculture).
3. I have almost two decades of experience in resource management practice. My experience includes being an expert witness on planning matters at council hearings, Boards of Inquiry, Special Tribunals and Environment Court proceedings.
4. I am a member of the Hawke's Bay Planners Group committee and the Hawke's Bay Horticulture Advisory Group. I am a certified RMA decision maker, and I am presently in the process of applying for full membership of the New Zealand Planning Institute.

Code of Conduct

5. Although this is a Council level hearing, I note that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note dated 1 January 2023. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Involvement in Napier City District Plan Development Process

6. I did assist Leanne Roberts with the preparation of Horticulture NZ's substantive submission on the Proposed Napier District Plan but was not involved with the preparation of HortNZ's further submission due to other work commitments.

Response to matters raised in S42A reports

7. This evidence focuses primarily on providing information specifically requested of HortNZ by the authors of the s42A reports to support amendments sought by HortNZ in its original submission. This information is set out below, before brief concluding comments are

made, and the outcomes sought by HortNZ are restated in the conclusion of this evidence.

Permission to allow burial of infected material in response to biosecurity incursion

8. HortNZ has sought a permitted activity rule that applies across all zones and allows 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. HortNZ has successfully sought similar rules in other district plans, such as Hastings. One of the key reasons for having these activities expressly permitted in district plans is that time is absolutely critical when responding to a biosecurity incursion. Some of the technical information detailed below has been provided to me by other members of the HortNZ team who work more closely in the biosecurity space.
9. Only when a biosecurity emergency is declared by the Governor-General on the recommendation of a Minister (s144 BA), can the emergency provisions in the Biosecurity Act 1993 override RMA provisions. Such a declaration has never been made. In other situations, a Chief Technical Officer can notify the MPI Director-General about an unwanted organism, but the biosecurity response mechanisms are still subject to RMA plan controls. With such a declaration, regional and district plan rules still need to be met regarding the disposal of infected material. Given the urgency required in such a situation, it is not practical to have to obtain resource consent.
10. In the 2010 PSA incursion, which crippled New Zealand's kiwifruit industry, only a Chief Technical Officer declaration was made, so regional and district plan requirements still needed to be met. This presented challenges in terms of timely and appropriate destruction of material which contributed to the rapid spread of and destruction from the disease. Many growers had to apply for resource consents to exceed permitted earthworks thresholds to enable them to bury infected material, and to clear some infected vegetation (that was indigenous and/or significant). This undermined the ability of the

horticultural sector to effectively respond which had a significant impact on the Bay of Plenty region and the rural economy.

11. This is why the specific wording of the rule HortNZ has sought is important, as it will ensure that appropriate exclusions are provided in the event of a biosecurity emergency declared under the Biosecurity Act, or by a declaration of a Chief Technical Officer.
12. Any large-scale pest incursion that affected horticultural plants could create a need to bury infected material. The main pests and diseases likely to cause problems in New Zealand are spore-producing fungi, bacterial infections and certain types of insects such as aphids, thrips or psyllids. PSA for example is a bacterial disease that produces spores on infected plant leaves. Large areas of infected plants (orchards) must be removed and deep buried (or burned) to prevent the further spread of the disease agents. As some living organisms can survive 2-3m below the earth surface, deep burial is sometimes required – making it increasingly likely that any earthworks thresholds would be exceeded. Soilborne pathogens such as Kauri Dieback for example can survive and thrive in shallow soil.
13. Whole orchards, or substantial parts thereof, may need to be removed. It is most likely that the whole tree or at least substantial parts of trees/vine vegetation would need to be removed due to infection. Infected tissue remains contagious to spread the disease, depending on the pathogen. Burial helps to contain any possible spread.
14. Burning infected vegetation is another possible response to a biosecurity incursion, but a range of factors determine if diseased vegetation should be burnt or buried. It is critical that both responses are available to growers. In close proximity to sensitive areas such as schools or native forests burial of vegetation is necessary. Burning can also encourage the spread of some diseases such as fungal spores or may agitate insects to jump/fly to surrounding vegetation. Burning can also be dangerous due to the ability to control burns. During a hot, dry summer for example, burning would simply not be an option.

Ancillary Rural Earthworks

15. HortNZ has sought the addition of a new policy, as well as a permitted activity rule related to ancillary rural earthworks. While not subject to this Stream 2 hearing, for completeness it is noted that HortNZ has also sought the inclusion of a definition of ancillary rural earthworks in the definitions section of the plan.
16. In commentary relating to the new rule sought, the reporting officer stated that they did not consider it necessary to have a specific rule for ancillary rural earthworks when they would fall under EW-S1, but did note that they were open to considering further evidence from Horticulture New Zealand on this matter to better understand the need for the relief sought.
17. Rule EW-S1 limits earthworks not associated with a building activity in the rural zone to 100m³/ha/yr. While the proposed definition of earthworks does explicitly exclude cultivation¹ and the disturbance of land for the installation of fenceposts, it does not exclude a raft of other activities associated with normal horticultural practices, that would exceed the 100m³/ha/yr threshold, and therefore require resource consent.
18. An effective way of illustrating the need for the rule (and associated policy and definition) is to provide an example. Orchard redevelopment involves a number of steps, which on their own may exceed the earthworks threshold, let alone when undertaken sequentially over a period of months. Orchard redevelopment is necessary when trees reach the end of their productive life but can also be undertaken by growers at different times for a number of other reasons, such as a desire to change the varieties they grow to respond to changing market demands or to alter their growing system to reduce their reliance on seasonal labour. Around 10% of New Zealand's apple orchards are redeveloped each year.
19. For the purposes of this hypothetical example, please picture a 4.5ha apple orchard in the Bay View area, which the owner wishes

¹ Cultivation is defined as the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock), for the purpose of sowing, growing or harvesting of pasture or crops.

to redevelop. The following activities, all of which are included within HortNZ's proposed definition of ancillary rural earthworks², may all be required as part of an orchard redevelopment project:

- (a) Tree removal: Before anything else is done it is critical to remove all existing apples trees. Roots must be completely removed as they can carry disease.
- (b) Drainage: Depending on the soil conditions of the orchard, it may be necessary to install tile drainage. This would involve the digging of trenches to say 1.4 m deep, at regular spacings across the orchard into which pipes are laid. Alternatively, land contouring may be undertaken to ensure that water doesn't pool in low areas on the orchard.
- (c) Root ripping: This involves the use of machinery similar to a rotary hoe that deep rips the soil, aerating it and removing any pans that may have formed under the old orchard.
- (d) Planting: New apple trees are then planted. For new two-dimensional (2-D) growing systems which aim to optimise fruit exposure to light and are also necessary to enable robotic picking in the future; planting densities vary but can exceed up to 1000 trees per hectare.
- (e) Crop support structures: Crop support structures are necessary to support 2-D growing systems. The spacing of 2-D systems can vary from around 2.7 to 3 m between rows, and in addition to these, overhead netting structures may also be installed to provide protection from hail and birds.

20. In terms of timing, orchard redevelopment is undertaken over a matter of consecutive months, as it is necessary to get orchards

² HortNZ's proposed definition of ancillary rural earthworks is:

- (a) *Normal agricultural and horticultural practices, such as ploughing, planting trees, root ripping, digging post holes, maintenance of drains, troughs and installation of their associated pipe networks, and realignment of fence lines, drilling bores and offal pits, burying of dead stock and plant waste;*
- (b) *Land preparation and vegetation clearance undertaken as part of horticultural plantings; and*
- (c) *Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.*

back to full production as soon as possible, to enable a return on investment to be made.

21. This example clearly illustrates why a 100m³/ha/yr threshold is not appropriate, and why a separate permitted activity rule is needed to enable ancillary rural earthworks associated with normal horticultural practice to be undertaken.
22. In terms of the policy enabling ancillary rural earthworks sought by HortNZ, this was considered necessary to support the permitted activity rule sought and ensure an appropriate cascade through the planning framework.

Other matters

23. Other than the matters discussed above, I am comfortable with the consideration that has been given to Horticulture New Zealand's submission, and further submission, and the conclusions that the officers have reached in relation to HortNZ's remaining submission points. In instances where a HortNZ submission has not been accepted, I acknowledge the reasons the officers have given, and do not see a need to debate those matters further.
24. One minor correction that may be needed is to SUB-17. The current drafting of SUB-17 in Appendix A does appear to reflect the relief the officer indicates that they have accepted.

CONCLUSION

25. In conclusion, I consider that the proposed district plan provisions as recommended by the officers for Hearing Stream 2 will achieve the primary outcomes sought by HortNZ in its submission and further submission if the following amendments are made:
 - (a) A new policy is included (EW-PX) that enables 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; and
 - (b) A new rule is included (EW-RX) that permits ancillary rural earthworks in the Rural Lifestyle and rural Production Zones; and

(c) A new rule is included (EW-RX) that permits 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 across all zones.

26. The reasons why these changes are necessary are set out clearly above. Horticulture is an important part of the fabric of Napier City's community. In providing this additional information it is hoped that the hearing panel is able to understand the need for the amendments sought and reflect this in the delivery of a planning framework that avoids unnecessary regulation of the city's horticulturalists.

Dr Charlotte Drury

18 November 2024