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Submission by

**HORTICULTURE NEW ZEALAND**

To the

**PRODUCTIVITY COMMISSION**

On the

**USING LAND FOR HOUSING – DRAFT REPORT**

**06 AUGUST 2015**

## **Introduction**

Horticulture New Zealand thanks the Productivity Commission for the opportunity to provide a submission on the paper titled “*Using Land For Housing – Draft Report*”. Horticulture New Zealand provided comment to the Issues Paper and thanks the Productivity Commission for referring to that submission in its draft report.

As set out in the earlier submission, Horticulture New Zealand is at the forefront of discussion and planning processes around New Zealand that are considering urban intensification and land supply issues. In this submission Horticulture New Zealand wishes to reiterate its position and to suggest changes to the draft report to assist the Productivity Commissions findings and recommendations.

## **2. Cities, growth, and land for housing**

### 2.2 The benefits of agglomeration

Horticulture New Zealand supports urban intensification and is not opposed to urban expansion (metropolitan and rural/coastal settlement) where this is not onto elite or prime land, does not compromise the quality or quantity of the freshwater resource for rural production and does not create reverse sensitivity conflicts between activities.

Section 2 would benefit from more balance and discussion on the connections and relationships between the rural sector and urban areas.

For example Figure 2.2 *Amenity in Urban and Rural Areas* is simplistic and misleading. Four amenity categories are noted (Internet access, Health service utilisation, Drinking water supply standards, Opportunities for study). The figure adds little to the discussion and ignores other factors such as air quality or the fact that urban freshwater bodies are more degraded than in rural areas and that urbanisation leads to further degradation. Amenity is a

much broader concept that figure 2.2 depicts and includes those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. Degraded urban waterbodies do not contribute in a positive manner to urban amenity and downstream can impact on rural production systems.

### 2.3 A framework for understanding the impact of city policies

Under the discussion on the effect of an urban limit in combination with other policies and constraints on a growing city, two reasons as examples are identified as to why in some cases urban limits (along with policies that limit investment in roads) were put in place:

- To reduce carbon emissions.
- To prevent the encroachment of cities on agricultural and rural land.

The discussion would be improved by noting the role urban limits play on managing the provision of infrastructure. Urban limits help achieve well-planned, efficient urban development and improve certainty about the sequenced provision of infrastructure to support growth and development in existing urban areas and greenfield areas. The inadequacy of the transport infrastructure is acknowledged but there are other infrastructural components not discussed – e.g. stormwater management systems.

### 2.7 Impacts on people and the economy

These sections discuss the effects high land prices, regulatory barriers that restrict the supply of land (or prevent more efficient use of land) and skewed housing production have had on individuals and on the New Zealand economy.

The impacts are not just on the urban population. The rural sector has also suffered significant land costs and rates increases on rural production land, particularly where that land is in proximity to urban centres. Areas on the

urban fringe have been valued not just for productive capability but also lifestyle use. This has skewed land price and in some circumstances pushed growers off rural land particularly when other factors (e.g. access to freshwater, reverse sensitivity) have compounded to make growing conditions unsustainable. These issues should also be addressed in this section of the report.

### **3. Integrated Planning**

#### 3.3 Spatial Plans

It is the opinion of Horticulture New Zealand that if we are to recognise, protect and enhance the rural production systems that support our national economy and supply food to the national and international communities, then we must clearly identify the resources required and how these systems will be considered in planning decision making. Spatial planning is one method to achieve this but the benefits for the rural production system are not noted in Box 3.1 of the draft report.

#### 3.4 The need for flexibility and vigilance

This section states *“the focus of current spatial plans on focusing development within existing or pre-selected areas creates the risk that they may unnecessarily constrain or distort development, in particular through goals around the protection of ‘highly productive’ agricultural land”*. Horticulture New Zealand has concerns with this expression.

Over the past 20 years, horticultural exports have grown from \$NZ 200 million to \$NZ 2.23 billion. Including domestic sales, the horticultural industry is worth \$NZ 5 billion and it employs over 50,000 people. Despite the industry growth, there are a number of threats to the viability of Horticulture in New Zealand and to maintaining sustained sector growth and the security of food supply.

These threats include:

- Water management – including allocation of water quality and quantity parameters that are key matters for the horticultural sector. Without water, elite and prime land cannot support high value rural production. There are also threats to the rural sector from freshwater quality degradation as a result of urban activities (stormwater runoff, aquifer contamination).
- Land supply – which is affected by changes to the rural urban boundary and land fragmentation. Access to the land resource is paramount for the horticultural sector. We are losing the best of a finite resource including north facing and frost free high production land to urbanisation.
- Infrastructure – the transportation needs of the rural sector include land access and linkages to the market, ports, airport etc. With urban growth comes added pressure on transport networks. There is also pressure on other infrastructure and resources such as gas supplies.
- Regulatory Regime – the regulatory regime must be permissive to avoid unreasonable costs and delays in undertaking rural production activities.
- Reverse sensitivity – conflict between resource users and particularly with rural residential land use can result in constraints to production.
- Biosecurity – policy to manage threats must be clear, activity placement must be cognisant of biosecurity issues.

There are choices available to decision makers on using land for housing and options to avoid compromising elite and prime land and the resources (including freshwater) that support rural production. It is not a matter of *goals around the protection of 'highly productive' agricultural land* unnecessarily

constraining or distorting development; investment and growth in rural production requires certainty. Without spatial planning this cannot be achieved.

### *Highly productive agricultural soils*

The discussion on highly productive agricultural soils and the connection to RMA regulatory plans expressed in Table 3.5 is important. This is not a new issue and there are statutory requirements to sustainably manage the resource.

The report states that policies to protect agricultural land from development are supported by farming organisations and goes on to refer to comments by Federated Farmers and Horticulture New Zealand. This is the case but the policies are also supported by communities that develop them.

The quote from Horticulture New Zealand that it has been successful for many years in restricting greenfield land supply in trying to minimise urban expansion across elite and prime land needs to be considered in the context that it is the impacts on elite and prime land and resources that support rural production that are of concern to the organisation – not all greenfield land.

The statement that tensions between the growth of cities and agricultural activities are inevitable, since many cities in New Zealand are located near land that is, or has been, used for agricultural purposes is agreed. The food provisioning service this land provides has not been addressed in the draft report and is a significant deficiency. The land is typically close to market, served by infrastructure, has an active labour source and can efficiently and cost effectively serve the adjoining metropolitan area with fresh fruit and vegetables.

Auckland was stated as an example in the original comments to the Productivity Commission and we repeat here that the rural production land in Auckland is critical in the national food supply framework. The productive advantage of Auckland is that its north facing frost free areas support

vegetable production all year round. Potatoes in particular can be planted in early May and harvested in early October. Most other regions further south do not plant until August and harvest in January. This makes Pukekohe the first in New Zealand to harvest new season potatoes and the sole supplier for New Zealand for three months. When frosts occur throughout the rest of the country the lettuce production in Pukekohe remains unaffected and this too becomes highly sought after. This productive capability is of national significance. Export capacity is important, but without the locally grown domestic supplies, national vegetable food security would be threatened.

The draft reports contention that efforts to prevent 'urban sprawl' may also not be the efficient and effective way to protect 'elite' or 'high class' agricultural land as the urban footprint is small, fails to recognise the resource scarcity or the food provisioning service this land provides. The discussion also fails to recognise any other impacts of urban sprawl on the 'elite' or 'high class' agricultural land including the impacts from freshwater degradation or tensions between domestic and municipal and rural water users.

Horticulture New Zealand supports discussion on lifestyle blocks. They can be an inefficient use of rural land and generate conflicts with rural production competing for land and water resources. The historical response to address countryside living demands has typically been ad hoc and uncoordinated. Poor decisions on countryside living have resulted in legacy effects requiring methods such as Transferable Development Right mechanisms to move latent residential potential from inappropriate rural locations.

The draft report makes the statement that *“land, like any other resource, will tend to migrate towards its highest value use. Prices indicate the highest and best use of a particular section of land. In some cases, the highest value use will be residential housing; in others, it will be agriculture or horticulture.”* This statement addresses only one value and it is short-sighted to suggest that prices indicate the highest and best use of a particular section of land. If food security for our growing urban communities is to be protected then the planning framework must support the productive use even if the market land value is worth more in housing or lifestyle use. Sustainable management

requires a consideration of future generations not just those today who may well take a countryside living subdivision opportunity over rural production if the planning framework allows this. This may not be the most sustainable resource use noting that subdivision is generally not reversible.

### 3.5 Options for closer integration

Horticulture New Zealand has remained proactive in looking for and providing, constructive suggestions for avoiding conflict and easing the planning processes.

This includes:

- Engaging with the industry organisations (not land developers who don't want to grow food any more) about the issues early.
- Defining no go areas and provide security they will not be affected by unplanned, opportunistic and sporadic development.
- Allowing development at a scale that provides more property titles in areas where land is not prime or elite.
- Encouraging mechanisms to remove the latent potential to provide for more planned infrastructure e.g. Transferable Development Right mechanisms etc.
- Reviewing the Rating Act to value land for the purpose it is currently zoned for and remove the opportunistic "right" created by rating land based on its potential use.
- Having a contested Resource Management Act process for programmed growth areas that takes account of the need to expand in an ordered fashion.



Horticulture New Zealand supports the debate on options for closer integration. The organisations position is that the spatial planning of resources remains a key method to provide certainty for all activities and Horticulture New Zealand supports government involvement in this process. This is the next step in resource management planning for New Zealand.

Removing or relaxing RMA analytical or consultation obligations is not supported however the more targeted procedures could be in place if clear and consistent priorities for resource use and protection are established nationally.

A consistent approach to a strategic planning tool to inform planning decisions is a method that should be rolled out across the country and considered at district, regional and national levels by:

- Spatially identifying opportunities and constraints for activities and development.
- Identifying highly valued and regionally significant resources that the policies protect or manage.
- Establishing clear and consistent priorities for resource use and protection by identifying boundaries and limits based on environmental values.
- Establishing priorities for resource use where there are likely to be competing uses, such as competition for land between primary production and urban development.
- Setting rules for regulating land use, subdivision and development.

There are choices available to decision makers on using land for housing, options to avoid compromising elite and prime land and the resources (including freshwater) that support rural production. It is the submitter's

opinion that New Zealand is as at a tipping point with planning processes and strong policy guidance and decisions are required to preserve elite and prime land as a non-renewable resource, critical to the national economy and domestic food security. Spatial planning is the method to accurately inform decision making.

#### **4. Supplying and releasing land**

##### 4.3 Covenants

The discussion on the use and effect of private covenants is useful. If measures are to be introduced to control covenants it must also be recognised that this is not just a greenfield site issue. Covenants are also used in the rural environment to protect countryside living amenity – at the expense of rural production. In the rural context limitations on development size, style, type, location etc are often also supported by limitations on land use controlling the number or type of livestock or agricultural use.

Covenants should not fetter or restrain what council would otherwise recognise as a lawful land use activity.

##### 4.5 Rezoning

###### *Potential reforms to consultation obligations*

###### *Limiting further submissions*

Horticulture New Zealand would not support reforms that limit the ability of directly affected parties to make further submissions on proposed plan changes. Plan change documents have become larger in volume and more complicated. Without significant reform this will remain the case. It is also Horticulture New Zealand's experience that a plan change can change significantly from the notified version to the operative version as a result of submissions. The inability to address a submission through a further submission will result in the principles of natural justice being compromised.

Narrowing the eligibility to make further submissions on plan change processes is supported by Horticulture New Zealand. The current provisions are too broad and the opportunity abused by submitters to provide scope and coverage across parts of the process not of direct relevance.

*Flexibility in notifying site-specific Plan changes*

Horticulture New Zealand does not support the limited notification process in the Housing Accords and Special Housing Areas (HASHA) Act 2013 whereby for plan changes and resource consent applications that apply to qualifying developments, only the following parties may be notified:

- (a) the owners of the land adjacent to the land subject to the application; and*
- (b) the local authorities in whose district or region the land subject to the application falls; and*
- (c) any infrastructure providers who have assets on, under, or over the land subject to the application or the land adjacent to that land; and*
- (d) if the land subject to the application or land adjacent to that land is subject to a designation, the requiring authority that required the designation.*

This may be a suitable process where a Special Housing Area (SHA) has been confirmed on land that has already been through a public process to confirm suitability to support urban growth – e.g. a Future Urban Zoning. Where this has not occurred it is not appropriate to exclude affected parties from the planning process.

There may be a case for refining the affected parties but this needs to be supported by the spatial planning and values setting initiatives previously identified by Horticulture New Zealand.

#### 4.6 The costs and benefits of appeals

Horticulture New Zealand has been actively involved in a plethora of appeals in relation to full plan reviews and plan changes and variations. The Commission has very accurately summarised the various tensions that exist when considering whether RMA policy and plan merit appeals should be further limited.

Horticulture New Zealand notes that in Canterbury (under the ECAN legislation), Christchurch (in relation to the District Plan review) and Auckland (in relation to the Unitary Plan) merit appeals are limited. Horticulture New Zealand is actively involved in these alternative processes and to date observes that:

- The processes are very labour and cost intensive with hearings generally focussing on topics necessitating multiple appearances over many months;
- The experts panels and their advisors are generally very good at focussing on the key issues that require determination;
- Only the larger players are involved with ordinary people finding the process too complex and difficult to engage with;
- It is early days in terms of the appeal being limited to law only (except in certain circumstances) given that for the most part no decisions have yet been delivered (except for regional planning in Canterbury) that have been subject to points of law appeals.

The Commission has asked for evidence that independent commissioners deliver more robust outcomes. It is rather difficult to quantify this. In Horticulture New Zealand's experience independent commissioners are certainly able to focus on the key issues and question expert evidence in a robust manner. However, whether this results in more robust outcome is very difficult to judge given the relatively recent use of independent commissioners in planning policy decision-making and noting that not all councils use independent commissioner so it is difficult to make comparisons.

Horticulture New Zealand considers that if appeal rights were to be changed then this needs to be part of comprehensive review of the RMA that looks at the process holistically, rather than just focussing on one aspect – namely where and who considers the appeal.

## **Conclusion**

As stated in the initial feedback to the commission from Horticulture New Zealand in December 2014, there are choices available to decision makers on using land for housing, options to avoid compromising elite and prime land and the resources (including freshwater) that support rural production. It is the submitter's opinion that New Zealand is as at a tipping point with planning processes and strong policy guidance and decisions are required to preserve elite and prime land as a non-renewable resource, critical to the national economy and domestic food security.

The point cannot be over stated that if elite and prime land is covered in urban activities then it is lost forever from rural production.