

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ**

Decision No. [2026] NZEnvC 215

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under clause 14 of the First
Schedule of the Act

BETWEEN

HORTICULTURE NEW
ZEALAND

(ENV-2025-CHC-72)

Appellant

AND

WAIMAKARIRI DISTRICT
COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 25 August 2026

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Waimakariri District Council is to amend the Partially Operative Waimakariri District Plan as set out in Appendix 1, attached to and forming part of this consent order;
- (2) the appeal is otherwise dismissed.



B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Horticulture New Zealand (HortNZ) against a decision of the Waimakariri District Council (WDC) concerning the Proposed Waimakariri District Plan (PDP). The PDP is now referred to as the Partially Operative Waimakariri District Plan (PODP).

[2] The appeal sought amendments to the PODP provisions in relation to artificial crop protection structures (ACPS),¹ burial of material infected by unwanted organisms² and rural tourism setbacks³ and General Rural Zone (GRUZ).⁴ I have read and considered the joint memorandum of the parties dated 15 July 2026 which sets out the agreement reached between the parties to resolve this appeal in its entirety. The agreement includes the following:

- (a) amendments to rule GRUZ-R16 (Artificial Crop Protection Structures) and built form standards GRUZ-BFS1 (Building Coverage), GRUZ-BFS4 (Building and Structure Setbacks) and GRUZ-BFS6 (Gross Floor Area), and the addition of a new definition

¹ HortNZ sought a new definition for ACPS, amendments to rule GRUZ-R16(1) (Artificial crop protection structures), standard GRUZ-BFS4(4) (Building and structure setbacks) standards GRUZ-BFS1 (Building Coverage) and GRUZ-BFS6 (Gross Floor Area).

² Amendments to EW-R5, EW-S1, EW-S4, a new definition of “material infected by unwanted organisms”, and amendment to the status of EW-AN4 from advisory note to an exemption and amend its wording. Insert a permitted rule for earthworks that covers a biosecurity emergency and include relevant exclusions for sensitive overlays.

³ Amendment to rule GRUZ-R15 to add a new activity standard requiring a 60m setback between rural tourism and primary production to manage reverse sensitivity effects on primary production activities.

⁴ Amendments to the activity status for industrial activities for the General Rural Zone (GRUZ) in rule GRUZ-R15.

- of “artificial crop protection structures”;
- (b) insertion of a new definition of “Material infected by unwanted organisms” and amendments to rule EW-R5 (Earthworks not subject to Rules EW-R1 to EW-R4), standards EW-S1 (General Standards for Earthworks) and EW-S4 (Excavation and filling) and advice note EW-AN4;
- (c) amend rule GRUZ-R15 (Rural Tourism) to introduce a setback for rural tourism activities from internal boundaries of sites in different ownership.

[3] I have also read and considered the affidavit of Ms Shelley Milosavljevic affirmed 29 June 2026. The affidavit explains the scope to make the changes sought and the rationale for the agreed changes in terms of s32AA RMA.

[4] Ms Milosavljevic has satisfied me that the agreed amendments are the most efficient and effective means of achieving the relevant objectives of the PODP. In relation to ACPS she considers the amendments improve clarity, certainty and implementation of the plan, while ensuring setbacks appropriately manage effects on rural character and amenity. Regarding the burial of material infected by unwanted organisms, she considers the amendments will address the gap that not all biosecurity incursions meet the threshold of a biosecurity emergency ensuring a timely and effective response to biosecurity incursions by removing unnecessary regulatory barriers while retaining appropriate environmental controls. Regarding the amendments to the rural tourism provisions, she considers the introduction of the 20m internal boundary setback to align with the 20m setback for residential units/minor residential units as they are both sensitive activities. She considers this will reduce reverse sensitivity effect and better protect adjoining primary production activities.

Other relevant matters

[5] New Zealand Pork Industry Board joined the appeal as an interested party

under s274 RMA and has signed the memorandum setting out the relief sought. New Zealand Pork Industry Board's interest was limited to the appeal points relating to the burial of material infected by unwanted organisms.

[6] The consent memorandum records the parties' assurances that there are no issues of scope and that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA, including, in particular Pt 2.

[7] No party seeks costs, all parties agreeing that costs should lie where they fall.

Outcome

[8] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.

Orders

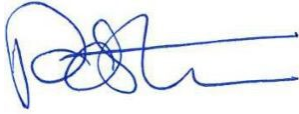
[9] The court makes this order under s279(1) RMA, by consent, rather than as a decision or determination on the merits under s297.

[10] This order is made on the basis of the joint memorandum recording the parties' full agreement. The court understands, for present purposes, that all relevant parties to the proceeding have executed the memorandum requesting the orders.

[11] Based on the information provided and the assurances received, the court is satisfied that the orders will promote the purpose of the RMA. Accordingly, the appeal is allowed, and WDC is directed to amend the provisions of the Partially Operative Waimakariri District Plan as set out in Appendix 1, attached to and forming part of this order.

[12] The appeal is otherwise dismissed.

[13] Under s285 of the RMA, there is no order as to costs.



P A Steven
Environment Judge



APPENDIX 1

ARTIFICIAL CROP PROTECTION STRUCTURES

(a) Amend rule GRUZ-R16 (Artificial Crop Protection Structures) as follows:

Activity status: PER

Where:

1. dark green or black cloth is used on vertical faces within 30m of the internal boundary ~~of the~~ with a site in different ownership, or a road boundary; and
2. green, black or white cloth is used on horizontal surfaces.

Activity status when compliance with GRUZ-R16 is not achieved: RDIS

Matters of discretion are restricted to:

RURZ-MD1 - Natural environmental values

RURZ-MD3 - Character and amenity values

(b) Amend built form standard GRUZ-BFS1 (Building Coverage) as follows:

1. The maximum building coverage (excluding artificial crop protection structures) shall be 20% of the net site area.

Activity status when compliance not achieved: RDIS

Matters of discretion are restricted to:

RURZ-MD6 – Coverage

~~Advisory Note~~

~~• This standard does not apply to Artificial Crop Protection Structures.~~

(c) Amend built form standard GRUZ-BFS4 (Building and Structure Setbacks) as follows:

1. Any residential unit or minor residential unit shall be set back a minimum of:
 - a. 20m from any road boundary (except for any fence); and
 - b. 20m from any internal boundary (except for any fence).
2. Any water tank shall be set back a minimum of 5m from all boundaries.
3. Any stockyard shall not be required to be set back from any boundaries.



4. Any artificial crop protection structure shall be setback at least 5m from an internal boundary [with a site in different ownership, or a road boundary](#).
5. Any other buildings and structures shall be set back a minimum of:
 - a. 10m from road boundaries (except for any fence); and
 - b. 4m from internal boundaries (except for any fence).

Activity status when compliance not achieved: RDIS

Matters of discretion are restricted to:

RURZ-MD8 - Setbacks and Reverse Sensitivity

Notification

An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified.

- (d) Amend built form standard GRUZ-BFS6 (Gross Floor Area) as follows:

1. The maximum GFA of any single building or structure [\(excluding artificial crop protection structures\)](#) shall be 550m².

Activity status when compliance not achieved: RDIS

Matters of discretion are restricted to:

RURZ-MD3 - Character and amenity values of the activity

~~Advisory Note~~

- ~~• This standard does not apply to Artificial Crop Protection Structures.~~

- (e) Insert a new definition into the Definitions chapter of the PODP to state:

ARTIFICIAL CROP PROTECTION STRUCTURE

[means a structure covered vertically and/or horizontally by permeable materials which do not impede air, sunlight or water penetration, or the use of underlying soils, and which are able to be seen through, and which are used to:](#)

- [provide wind shelter; and/or](#)
- [protect or promote the growth of crops;](#)

[but does not include greenhouses/glasshouses or plastic-clad shade houses.](#)

BURIAL OF MATERIAL INFECTED BY UNWANTED ORGANISMS

- (a) Amend rule EW-R5 (Earthworks not subject to Rules EW-R1 to EW-R4) as follows:

All Zones

Activity status: PER

Where:

1. EW-S1 to EW-S6 are met; and
2. NH-R4 and NH-R6 are met; ~~and~~ and
3. For any earthworks required for the burial of material infected by unwanted organisms, the Waimakariri District Council Chief Executive shall be informed via email within both one working day of commencing the works and within five working days of completing the works, of the following details:
 - a. the specific location and extent (depth, area, and estimated volume) of any earthworks required for the burying of material infected by unwanted organisms;
 - b. the nature of the material infected by unwanted organisms;
and
 - c. any ongoing management requirements.

Activity status when compliance not achieved: RDIS

Matters of discretion are restricted to:

EW-MD1 - Activity operation, scale, form and location

EW-MD2 - Nuisance and reverse sensitivity

EW-MD3 - Land stability

EW-MD4 - Natural Hazards

EW-MD5 - Rehabilitation

EW-MD6 - Coastal environment and hazards

EW-MD7 - Water bodies, vegetation and fauna

EW-MD8 - Outstanding natural features and landscapes

Advisory Note

- It is recommended that the Canterbury Regional Council and the Ministry of Primary Industries are notified of any burial of material infected by unwanted organisms.

- (b) Amend standard EW-S1 (General Standards for Earthworks) as follows:

1. Unless otherwise specified in EW-R1 to EW-R10 or in EW-S1(2) below, earthworks shall comply with Table EW-1. Where zone or overlay thresholds differ, the lower threshold shall apply.
2. Earthworks required for the burial of material infected by unwanted organisms are not required to comply with the volume limit for the General Rural Zone, Rural Lifestyle Zone, or Special Purpose Zone (Kāinga Nohoanga) - sites outside of Tuahiwi Precinct in Table-EW-1.

(c) Amend standard EW-S4 (Excavation and filling) as follows:

1. Except for the burial of dead animals, the burial of material infected by unwanted organisms, and for offal pits, earthworks shall achieve the following:
 - a. a maximum height of 1.5m above ground level,
 - b. a maximum depth of 2m below ground level;
 - c. material used for filling of land must be cleanfill material.

(d) Amend advice note EW-AN4 as follows:

These standards do not apply in the following situations:

1. During a state of emergency or transition period declared or where direction to undertake specific earthworks has been issued by the controller or recovery manager under the Civil Defence Emergency Management Act 2002; ~~or during a biosecurity emergency declared by an authorised person under the Biosecurity Act 1993.~~

(e) Insert a new definition into the Definitions chapter of the PODP to state:

MATERIAL INFECTED BY UNWANTED ORGANISMS

means material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

RURAL TOURISM SETBACKS

(a) Amend rule GRUZ-R15 (Rural Tourism) as follows:

GRUZ-R15 Rural Tourism

Activity status: PER

Where:

1. a maximum of five staff shall work on the site at any one time;
2. the maximum GFA occupied for the rural tourism shall be 250m²;

3. the maximum land area occupied for the rural tourism shall be 500m²;
4. any retail sales area shall be set back a minimum of 10m from the site boundary;
5. the maximum NFA or land area occupied for retail sales shall be 50m²;
~~and~~
6. any buildings, yard, storage, or parking areas associated with the activity shall not be located within 60m of any residential unit, or other sensitive activity, located on a site other than where the rural tourism is occurring;
and
7. any buildings or yard associated with the activity shall be set back a minimum of 20m from an internal boundary with a site in different ownership.

