

# Agrichemicals

## **Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report**

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## Purpose and format of the report

1. This report provides the hearing panel the rationale for the recommended changes to the Agrichemical provisions in the Proposed Regional Plan for Northland (the Plan) in response to submissions. The recommended changes are set out in the document Proposed Regional Plan for Northland – S42A recommended changes.
2. The recommendations made in this report are the opinion of the author and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. The authors recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. The recommendations focus on changes to the Plan provisions. If there is no recommendation, then it's to be assumed that the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured with a focus on the key matters for the agrichemicals provisions raised in submissions. The key matters are:
  - Qualification requirements for agrichemical application
  - Notification
  - Controlling spray across the boundary
7. Matters covered by submissions that fall outside the key matters are addressed in the "Other matters" section in less detail.
8. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.
9. This report should be read in conjunction with section 7.4 - Spray in the Section 32 report.

## Report author

10. My name is Michael James Payne and I have overall responsibility for this report. I work as a Policy Analyst for the Northland Regional Council (regional council). For further details about my qualifications and experience, refer to the s42 report: *General approach and procedural issues*.
11. The following council staff and consultants have assisted me with the preparation of this report:
  - Stuart Savill, Consents Manager, Northland Regional Council
  - Obi Khanal, Air Quality Specialist
  - James Mitchell, Hazardous Substances Specialist
12. Although this is a council hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing this report and I agree to comply with it when giving oral presentations.

## About the agricultural provisions

13. The relevant provisions in the Proposed Regional Plan for Agricultural address in this report are:

### Definitions

- Aerial application
- Agricultural
- Hand held spraying
- Ground-based spraying
- Property
- Spray-sensitive area

### Rules

- C.6.5.1 Application of Agricultural – permitted activity
- C.6.5.2 Application of agricultural to water - permitted activity
- C.6.5.3 Vertebrate toxic agents (ground-based application) – permitted activity
- C.6.5.4 Vertebrate toxic agents (aerial application) – controlled activity
- C.6.5.6 Application of agricultural and vertebrate toxic agents – discretionary activity

### Policies

- D.3.4 Spray generating activities
- D.4.10 Discharge of hazardous substances to land or water

14. Agricultural are any substance, whether inorganic or organic, man-made or naturally occurring, modified in its natural state that is used in any agriculture, horticulture or related

activity, to eradicate, modify or control flora or fauna. Agrichemicals include agricultural compounds, but exclude fertilisers, vertebrate pest control products and oral nutrition compounds.

15. Agrichemical use is widespread in Northland in the horticultural, agricultural and forestry sectors. As well as in many domestic situations and in parks / reserves for weed, pest and disease control. Under the Proposed Plan people can use agrichemicals as a permitted activity subject to conditions of Rule C.6.5.1 and C.6.5.2. In general, the approach taken to agrichemical management in the Proposed Plan is the same as the Regional Water and Soil Plan, 2004.
16. The Proposed Plan's approach to the management of agrichemicals is consistent with the requirements of the New Zealand Standard – Management of Agrichemicals (NZS 8409:2004 Management of Agrichemicals). Meeting the requirement of this standard will ensure good management practice applies to the use, application, storage and disposal of agrichemicals.

## **Hazardous Substances and New Organisms Act 1996**

17. The Resource Management Act 1991 and Hazardous Substances and New Organisms Act 1996 (HSNO) both have a role to play in the management of agrichemical use. In this section i have attempted to outline the role of HSNO and how it relates to the RMA and the Proposed Plan.
18. The Hazardous Substances and New Organisms Act 1996 has the main purpose to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances, including agrichemicals and new organisms.
19. The Act was passed in June 1996 and represented one of the most significant reforms of environmental legislation since the Resource Management Act. It came into force in two stages. Provisions relating to new organisms took effect in July 1998. The provisions relating to hazardous substances came into force on 2 July 2001.
20. The Act established the Environmental Risk Management Authority (ERMA) to assess and decide on applications to introduce hazardous substances or new organisms into New Zealand. Approvals under HSNO are generally subject to conditions to manage

effects on the environment and human health. ERMA became the Environmental Protection Authority (EPA).<sup>1</sup>

21. The purposes of the Hazardous Substances and New Organisms Act and the Resource Management Act are similar. On the face of it there are a number of overlaps that could lead to duplication.
22. Section 142 of the HSNO Act articulates the relationship between the RMA and HSNO. It does not preclude regulation of agrichemicals under other acts but does make it clear that controls issued under HSNO must still apply. Section 142 (HSNO) does not require the duplication of HSNO requirements in plans. The provision does give councils an ability to impose more stringent requirements than HSNO, but only where necessary for RMA purposes. Before imposing more stringent requirements, RMA decision makers should carefully consider whether they are in fact necessary, as opposed to merely expedient.
23. In most circumstances, HSNO provides an appropriate level of management of hazardous substances. However, there will be some situations where RMA controls can generally be justified. Potential situations where additional controls under the RMA may be necessary include:
  - managing potential effects on sensitive activities
  - reverse sensitivity issues
  - managing potential effects on sensitive natural environments including substances that are not controlled by HSNO
  - the risk to public safety from natural hazards that could affect hazardous facilities
  - managing cumulative effects from multiple facilities
  - where the relevant HSNO requirements do not anticipate or adequately manage these issues<sup>2</sup>

## Overview of submissions

24. A total of 32 submitters made submissions on the Agrichemicals provisions, and these were broken up into 66 submission points.

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<sup>1</sup> <http://www.mfe.govt.nz/more/acts-and-regulations/hsno-act-1996>

<sup>2</sup> <http://www.qualityplanning.org.nz/index.php/planning-tools/hazar>

25. The key topics discussed in submissions were;
- qualifications for agrichemical application, and
  - notification, and
  - controlling spray across the boundary

## Qualifications for agrichemical application

### Submissions and analysis

26. Several submissions<sup>3</sup> were received on the proposal to require qualifications for ground-based and aerial application of agrichemicals in Rules C.6.5.1 and C.6.5.2.
27. In their submission, the Minister for Conservation states that ‘approved handler’ status is required under HSNO where an agrichemical is: applied by a contractor, toxic to humans, corrosive, used over and into water, is ecotoxic or is to be used in a widely dispersive manner. They also point out that health and safety legislation includes requirements for certification / training.
28. In summary, the Minister of Conservation believes national regulation sufficiently regulates training of agrichemical applicators and the additional measures proposed in the Proposed Plan are not necessary. The Minister of Conservation has requested that all conditions around qualification be deleted and replaced with an advice note directing readers to national legislation.
29. Horticulture New Zealand supports the proposal to require qualifications in the Proposed Plan with some minor changes. Horticulture New Zealand’s submission did not go into detail about why they support the proposal. During subsequent discussions Horticulture New Zealand elaborated on their position, explaining that in their view the inclusion of training requirements / qualifications made it clear that training is required. They also clarified that training programmes like Growsafe include training on regional rules which in their view lifts the level of awareness of regional rules and lifts compliance rates.
30. In order to gain a better understanding of agrichemical training requirements under recent changes to health and safety regulation and HSNO notices I discussed the matter with Murray Beare, Director of Educhem Specialist Agrichemical Educators. Educhem provide

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<sup>3</sup> Including Skywork Helicopters Limited, Minister of Conservation and Horticulture New Zealand

agrichemical training including Growsafe and Certified Handler qualifications. Mr Beare explained that the *Health and Safety at Work (Hazardous Substance) Regulation 2017* include training requirements for Class 6 - toxic and certain Class 8 – corrosive agrichemicals and the *Hazardous Substances (Hazardous Properties Controls) Notice 2017* contain training requirements for Class 9 – ecotoxic substances. He also stated that it is his view that national regulation adequately covers training for agrichemical applicators.

31. After perusing the Health and Safety at Work (Hazardous Substance) Regulation and the *Hazardous Substances (Hazardous Properties Controls) Notice 2017* and discussing the submissions with James Mitchell, Councils Hazardous Substance Specialist I concluded that the Proposed Plan duplicates aspects of national regulation. I believe duplication should be avoided, where possible. In this case duplication could result in council adopting enforcement responsibilities delegated to the Environmental Protection Authority or Work Safe New Zealand. In my view, it would be inefficient and unnecessary to retain requirements for training.
32. I recommend that the clauses in C.6.5.1 and C.6.5.2. requiring qualifications for ground-based and aerial application of Agrichemicals be deleted and that an advice note be inserted directing readers to the applicable national regulation, as requested by the Minister of Conservation.

## **Recommendation**

33. That the Proposed Plan be amended as follows;
  - Delete the requirements for training in Rules C.6.5.1 Application of agrichemicals and C.6.5.2 Application of agrichemicals to water as shown in Proposed Regional Plan for Northland – S42A recommended changes.
  - Include an advice note referring applicable national regulation as shown in Proposed Regional Plan for Northland – S42A recommended changes.

## **Evaluation of recommended changes**

34. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 7.4 of the Section 32 report and therefore do not require further evaluation.

## Notification

### Submissions and analysis

35. A number of submissions were received that comment on the notification requirements in rules C.6.5.1 Application of agrichemicals – Permitted activity and C.6.5.2 Application of agrichemicals to water.

### Roadside spraying and signage

36. Rule C.6.5.1 Application of agrichemicals – permitted activity requires sprayers to erect signage notifying the public of spraying. Broadspectrum is seeking amendments to the physical signage aspect of the notification requirements because they are ‘too costly and unworkable’. The exact relief sought by the submitter is unclear. However, it appears that they would like the signage requirements removed from the rule and that as a compromise they would accept placing information on council’s website.
37. I accept that there is a cost to councils and contractors to erect signage. It is important to get the balance between costs and public awareness right. In this case I believe the proposed rules are overly cautious in respect to erecting signage prior to spraying.
38. It is worth pointing out that the rules require written or oral notification of neighbours so the signage is not for their benefit. The purpose of roadside signs is to make the general public, that may come in contact with sprayed plants or road surfaces aware that spraying has taken place.
39. Given that roads are a public place and that agrichemicals have the potential to harm human or animal health the requirement to place signage seems reasonable. I do believe we can reduce the amount of time that signage is displayed and still protect human health. I recommend that amendments are made to allow signage can be erected at the commencement of spraying.
40. The proposed rule states that signs must be erected until the end of the stand down period. In Whangarei district, Gyphosate and Metsulfuron-methyl are the most commonly used agrichemicals on the roadside. Neither of these agrichemicals have a stand down period and I understand that the Environmental Protection Authority does not require ‘stand down periods’. I recommend that all references to stand down periods be removed.

## **Notification for aerial spraying, ground based and hand-held spraying**

41. The Proposed Plan does not require notification of neighbours for hand held spraying but does require notification where ground-based spraying is within 30m of a spray sensitive area on another property.
42. The Minister of Conservation is seeking amendments that require notification of neighbouring properties if hand-held spraying is occurring within 30 meters of a boundary. At the time, the Proposed Plan was drafted council was of the opinion that handheld spraying allows for accurate spray application with little risk of cross boundary spray drift. Consequently, they did not see the need to impose notification requirements on sprayers. I have not seen any evidence to suggest that this approach is flawed. I do not support the amendments sought by the Minister of Conservation.
43. Several submitters are seeking modifications to the notification distances for ground based application of agrichemicals. The suggested distances range from 50m to 100m or up to 200m where spraying is near a school.
44. Submitters from Waimate North have cited concerns about agrichemical spray drift entering water tanks and children being exposed to spray drift at school and on their way to and from school as reasons for imposing a suite of changes to the agrichemical rules, including increasing the notification distances.
45. In addition, Northland District Health Board suggested that the notification requirements for spraying in road and rail corridors should applied to any method of spraying in any area. They also suggest that the minimum notification distance should be increased from 30m to 50m for hand held spraying and from 200m to 300m for aerial spraying to reflect the notification distances in the Proposed Bay of Plenty Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan.
46. The Proposed Bay of Plenty Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan and the Proposed Plan both use a 200 metre notification distance for aerial spraying. The 300 metre figure quoted by the submitter may have been a drafting error. The submitter has not provided any evidence to suggest why the notification distance for ground-based spraying should be increased from 30 metres as stated in the Proposed Plan to 50 metres.

47. In respect to the request that the notification requirements for agrichemical application in road or rail corridors I believe these amendments could impose onerous notification requirements for the average agrichemical user by requiring them to erect signage, place advertisements in newspapers or drop letters to neighbouring properties.
48. The additional notification requirements proposed for road and rail corridors reflect the increased likelihood of the public coming in contact with agrichemicals due to them being public places. Without evidence to suggest that the proposed notification requirements are flawed or that increased notification is warranted I cannot support the relief sought by Northland District Health Board.
49. Northland District Health Board are also seeking to introduce text that allows the notification distance to vary depending on meteorological conditions and the characteristics of the agrichemical.

*The minimum distance should consider the volatility and toxicity of the chemical being applied, anticipated meteorological conditions on day of application, terrain and location of sensitive receptors, and...*

50. While I accept that the potential for spray drift will vary depending on the agrichemical being used and the meteorological conditions of the day a condition of this nature does not provide the certainty required for in a permitted activity rule. If a condition of this nature was included in the plan the rule would be vulnerable to challenge. Therefore, I cannot support the relief sought.

## **Timeframes for notification**

51. Hancock Forestry Management and Rayonier New Zealand have requested that the upper limit for notification, currently two weeks, is increased to one month. The reason given by the submitters to support the change are;

*spraying times can change quickly due to changing weather. Requiring notification, no more than two weeks before the spraying activity requires land owners/ managers to, at times, carry out multiple notifications.*

52. A discussion with Hancock Forestry Management (HFM) following the receipt of submission indicated that a longer notification period would be more practical for forestry operators. The scale of forestry operations, the large number of people that need to be notified and the

unstable nature of Northlands weather mean that notification can be a resource hungry task that could at times have to occur a few times before spraying actually takes place.

53. Horticulture New Zealand are also seeking amendments to the proposed notification timeframes. Horticulture New Zealand have requested that the minimum notification time be reduced from 24 hours to 12 hours and that the maximum timeframe be extended from two weeks to 3 weeks.
54. Upperton T and the Soil and Health Association of New Zealand are of the view that the proposed notification timeframes are too lenient. They have requested that the minimum timeframe be increased to 48 hours to allow neighbours to disconnect water tanks from roof catchments.
55. All four of the submitters on this point raise valid arguments. It is important that neighbours have adequate time to prepare, in case there is spray drift across the boundary. It is equally important that the rules do not unduly burden sprayers or impose unreasonable restrictions.
56. I believe the extending the maximum limit from two weeks to three weeks, as sought by Horticulture New Zealand is appropriate. Discussions with Horticulture New Zealand highlighted that a longer notification period was beneficial in terms of booking contractors and organising spraying. This change is unlikely to have much impact on neighbours.
57. In my view, the more critical time limit for neighbours is the minimum amount of notice neighbours can receive before spraying takes place. This clause is intended to give neighbour time to prepare for spray drift by disconnecting roof fed water tanks, or covering sensitive plants or to move stock that may be sensitive to the noise or other effects associated with spraying. I don't believe that allowing sprayers to notify neighbours 12 hours before spraying takes place give the neighbours adequate time to prepare.
58. Horticulture New Zealand is also seeking amendment that would allow packhouses and management companies to undertake notification. The submitter explains that it is common practice for these parties to be contracted to undertake this work and the amendments would reflect existing practices. I accept the submitters point and recommend that the relief is granted.

## Recommendation

59. Amend Rule C.6.5.1 *Application of agrichemicals – permitted activity as shown in the Proposed Regional Plan for Northland – S42A recommended changes* by:

- amending the notification requirements for agrichemical application within a road or rail corridor, and
- amend the notification timeframe for groundbased and aerial application of agrichemicals
- providing for packhouses and management companies to undertake notification

## Evaluation of recommended changes

60. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 7.4 of the Section 32 report and therefore do not require further evaluation.

## Controlling spray across the boundary

### Submissions and analysis

61. A number of submitters from the Waimate North area are requesting additional controls to reduce the risk of spraying across the boundary on sensitive areas. These includes:

- Changes in land where landuse is changing to intensive cropping.
- Requiring the planting of shelter belts
- Mandatory setbacks for spraying from property boundaries
- Requirement for spray plans

62. Smith C Et al.<sup>4</sup> are seeking new rules to control changes in land where landuse is changing to intensive cropping. These changes would require resource consent where landuse changes from pastoral to intensive cropping.

63. Regional Councils do not the ability to manage changes in land use<sup>5</sup>. In the past it could have been argued that the relief sought was consistent with Regional Council functions

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<sup>4</sup> Wheeler D and L, Muraro S, Ross D and Adams H,

<sup>5</sup> S30(1) (c) resource Management Act 1991

under s30 (1) (c) (v) however this section of the Resource Management Act has been repealed and landuse controls under this section of the Act are no longer an option.

64. The relief sought is within the scope of district council function <sup>6</sup> the submitter may wish to pursue this matter with Far North District Council who I believe are about to commence work on a rural plan change.
65. In respect to the submissions seeking mandatory spray plans. The Proposed Plan requires sprayers to meet the requirements of NZS 8409:2004– Management of Agrichemicals (the Standard). This standard requires sprayers to prepare an annual spray plan and notify anyone likely to be affected by spray application that a spray plan has been prepared and is available on request (NZS8409:2004 clause 5.3.2).
66. While the Proposed Plan already requires spray plans to be available to affected parties via a reference to the Standard<sup>7</sup> I see some benefit in including a clause requiring spray plans to be provided to the regional council on request.
67. In respect to spray applications close to roads mandatory spray plans should identify roads and footpaths as sensitive areas if there is a risk of agrichemical spray drift into these areas and identify methods to manage the risk. This could include signage Appendix M - M3 provides guidance on where signs should be placed and the information signs should display.
68. In respect to the submission points seeking new objectives and policies directing the monitoring of agrichemical use. The Proposed Plan is intended as a regulatory document and does not include objectives or policies that direct monitoring. I support this approach and do not recommend that objectives or policies directing monitoring be included in the Plan.
69. In respect to the submission points seeking a new clause requiring agrichemical applicators to erect shelter belts. Shelter belts and buffer zones are identified in the Standard as possible mitigation methods for managing spray drift. They are two of many tools that sprayers can use to manage spray drift but in my view, should not be mandatory

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<sup>6</sup> S31 (1) (b) (ia)

<sup>7</sup> See Proposed Plan Rule C.6.5.1 (2) and (3)

requirements. Proposed Rule C.6.5.1 provides agrichemical applicators with some flexibility in how they manage agrichemical spray drift which I believe is appropriate and allows them to implement mechanism that suit the conditions on their property. Shelter belts may not always be the best tool to manage agrichemical spray drift.

## **Recommendation**

70. Amend Rule *C.6.5.1 Application of agrichemicals – permitted activity* by inserting a new clause requiring agrichemical applicators to provide a Spray Plan to regional council upon request the as shown in *Proposed Regional Plan for Northland – S42A recommended changes*:

## **Evaluation of recommended changes**

71. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 7.4 of the Section 32 report and therefore do not require further evaluation.

## **Other matters**

72. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the agrichemical provisions not addressed in the key matters sections of this report.

## Appendix A - Response to other matters raised in submissions

Note – this table does not include the summary of submission points, analysis and recommendations made on the Agrichemicals and Vertebrate Toxic Agent provisions addressed in the key matters sections of the report.

Provision	Summary of main submission points	Discussion	Recommendation
General	Grammer Z and Hughes J have general concerns about agrichemical spraying. Hughes J would like to see it banned.	The submitters have not provided any information to convince me that a ban is justified.	No change
General	Alspach R has requested that NZS:8409:2004 is appended to the Proposed Plan so that it is readily available to view.  Royal Forest and Bird also comment on the availability of the standard and have requested that the applicable clauses from the standard are include in the rule.	Mr Alspach raises a valid point in respect to the availability of NZS:8409:2004. The standard can be made available to the public at Northland Regional Council Offices.  Staff have investigated the option of posting a copy of the standard on council's website. Unfortunately, the cost of doing so in prohibitive. An alternative is to copy key parts of the standard and make those available through council's website. Staff will endeavour to do this.  This does not, in my view need to be appended to the plan but council should endeavour to make the standard easier for the public to view.  In response to the submission point from Royal Forest and Bird Society I do not believe it is necessary to include the relevant clauses from the standard in the rule. Provided the public have access to the standard.	No change
General	Landowners Coalition Inc believe the controls are too restrictive.	The submitter does not state which aspects of the rules they are concerned about or state how they believe they could be improved. Therefore, it is difficult to assess the merits of their proposal or support or oppose their relief.	No change

Provision	Summary of main submission points	Discussion	Recommendation
General	Hughes j seeks that the Proposed Plan declares Northland an 'Organic Zone'	The submitter seeks that Northland is declared an 'Organic Zone' and that public consultation is undertaken on this topic. At this time, no research has been presented on the costs or benefits of declaring Northland an Organic Zone. I do not have any information that persuades me that we should depart from the position set out in the Proposed Plan.	No change
General	A number of submitters have requested amendments requiring council to monitor contaminant levels in waterways, water tanks or monitor spray activities.	The Proposed Plan has a focus on regulation. It does not include policies or other methods to direct monitoring.	No change
General	Northland Toxin Awareness Group is asking the NRC to ban all highly hazardous pesticides as defined by the Food and Agricultural Organisation (FAO) of the United Nations and a ban on all aerial spraying	The relief sought falls within the responsibilities of the Environmental Protection Authority and should not be addressed the proposed Plan.  The submitter also seeks a ban on all aerial spraying. The submitter has not provided any information to support their relief. I am therefore unable to assess the merits of their proposal and cannot support prohibiting aerial spraying.	No change
General	Sloane D is asking that the use of the following chemicals be Banned in the Whangarei District; <ul style="list-style-type: none"> <li>• Glyphosate</li> <li>• All bee harming pesticides/herbicides: <ul style="list-style-type: none"> <li>○ Bayer's Imidacloprid, and Clothianadin.</li> <li>○ Syngenta's Thiamethoxam.</li> <li>○ Basf, Fipronal.</li> <li>○ Clorpyrifos.</li> <li>○ Cypermethrin</li> <li>○ Detamethrine.</li> </ul> </li> </ul>	In my view, this is matter best addressed by the Environmental Protection Authority. I have not seen evidence that convinces me that controls at a regional level are necessary. i.e. that the risk in Northland from the use of glyphosate is so significantly different to the rest of New Zealand that the Proposed Plan should prohibit its use.	No change

<b>Provision</b>	<b>Summary of main submission points</b>	<b>Discussion</b>	<b>Recommendation</b>
General	Ravensdown limited seeks for the intent and activity status of Rules C.6.5.1 - C.6.5.5 to be retained as written, while removing references to inconsistent regulations relating to the application of agrichemicals.	The submitter hasn't provided specific examples of the inconsistencies present in rules C.6.5.1 – C.6.5.5. I am recommending several changes as a result of other submissions which may give relief to this submitter.	No change
General	Several submitters <sup>8</sup> seek amendments as necessary to ban/prohibit the use of glyphosate in Northland.	<p>In my view, this is matter best addressed by the Environmental Protection Authority. I have not seen evidence that convinces me that controls at a regional level are necessary. i.e. that the risk in Northland from the use of glyphosate is so significantly different to the rest of New Zealand that the Proposed Plan should prohibit its use.</p> <p>It is worth noting that the Environmental Protection Authority recently re-assessed Glyphosate.</p> <p>The overall conclusion is that – based on a weight of evidence approach, taking into account the quality and reliability of the available data – glyphosate is unlikely to be genotoxic or carcinogenic to humans and does not require classification under HSNO as a carcinogen or mutagen.<sup>9</sup></p>	No change
General	Leonard B is seeking that all agrichemical and vertebrate toxic agent rules be amended to a prohibited activity.	The submitter has not provided any information to convince me that a prohibited activity is appropriate for the application of agrichemicals or vertebrate toxic agents.	No change

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<sup>8</sup> Hughes J, Sloane D and Mallitte J

<sup>9</sup> Dr Wayne Temple for the Environmental Protection Authority, 2016. Review of the Evidence Relating to Glylyphosphate and Carcinogenicity.

Provision	Summary of main submission points	Discussion	Recommendation
New rule	Alspach R requests a re-introduction of provisions around limiting aerial spraying of 2,4-D at certain times of year.	<p>The existing Regional Air Quality Plan (RAQP) placed restrictions on ground and aerial spraying of 2,4-D outside of the winter months. The reason for this was the higher volatility of the agricultural chemical in different weather conditions.</p> <p>The general principle that we have adopted with the Proposed Plan is to not specify controls over particular agricultural chemicals where controls are sufficient under HSNO. I have read the HSNO controls and they are reasonably strict however no calendar restrictions are specified as requested by the submitter</p> <p>I am not persuaded that additional restrictions are necessary for 2,4-D, providing all HSNO regulations are adhered to.</p>	No change
New Rule	<p>Horticulture New Zealand have requested a new restricted discretionary rule for the application of agricultural chemicals that are unable to meet the permitted activity conditions.</p> <p>They also request a consequential change, deleting 'agricultural chemicals' from Rule 6.5.5.</p>	<p>The submitter is seeking an additional restricted discretionary rule for the discharge of agricultural chemicals that are unable to meet the permitted activity.</p> <p>Under the Proposed Plan these activities would be covered by a general discretionary activity rule C.6.5.5.</p> <p>The submitter has suggested text to be included in the plan. The restricted discretionary rule proposed by the submitter is comprehensive. It is unclear which matters are being excluded (where discretion being restricted) and what the benefit is of the proposed restricted discretionary rule over the Proposed Plan's discretionary rule.</p> <p>If the submitter can demonstrate the benefit of the proposed restricted discretionary rule I would consider supporting the proposal with an additional matter of discretion (effects on sensitive areas) .</p>	No change

Provision	Summary of main submission points	Discussion	Recommendation
New Rule	The Minister of Conservation requests a new rule be inserted permitting the discharge of agrichemicals in accordance with the Biosecurity Act 1993.	<p>It is unclear from the submission how the rule would be structured and in which situations the suggested rule would be used or why Rules C.6.5.1 and C.6.5.2 are not appropriate for Biosecurity management.</p> <p>At this time, I do not have the information required to assess the proposal by the Minister of Conservation and can therefore not support or oppose the relief sought.</p>	No change
Definition of Agrichemical	<p>Horticulture New Zealand and the Minister of Conservation have requested amendments to exclude vertebrate toxic agents from the definition of agrichemicals.</p> <p>The Minister of Conservation is seeking the definition be replaced with the following;</p> <p><u><i>Any substance, whether inorganic or organic, man-made or naturally occurring, modified or in its original state, that is used to eradicate, modify or control living organisms. Including adjuvants and animal remedies, but excluding fertilisers and vertebrate toxic agents</i></u></p>	<p>I recommend that the relief sought be adopted for the following reasons.</p> <p>The Proposed Plan refers has rules managing agrichemical use. The definition unintentionally applies those rules to vertebrate toxic agents. Granting the relief sought would resolve this issue.</p> <p>Fungicides are commonly used in Northland and it was not council's intention to exclude them from the agrichemical rules. The changes sought by the Minister of Conservation would rectify this error.</p>	Amend the definition of agrichemical as shown in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>

Provision	Summary of main submission points	Discussion	Recommendation
Definition of Ground-based spraying	Horticulture New Zealand seeks amendments to the definition of ground-based spray.	The amendments sought are minor but do improve clarity.	Amend the definition of Ground-based spraying as shown in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
Rule C.6.5.1	Mallitree J requests councils to stop spraying in built up areas, near schools, kindergartens, around drains, rivers and lakes	In my view, this is an operational matter for district councils and should not be addressed in the Proposed Plan.	No change
Rule C.6.5.1	Handcock Forest Management (HFM) are seeking amendments to make the discharge of smoke as part of aerial agrichemical application a permitted activity.	<p>This activity is permitted by rule C.7.2.6. Although the activity is permitted the activity must not be offensive or objectionable beyond the property boundary.</p> <p>I believe that the discharge of smoke from a smoke bomb should be subject to the offensive or objectionable clause. On that basis, I recommend that the relief sought by HFM is rejected.</p>	No change

Provision	Summary of main submission points	Discussion	Recommendation
Rule C.6.5.1	<p>Horticulture New Zealand are seeking the deletion of clause 1)(a) (i) – which relates to offensive or objectionable odour or spray.</p> <p>They are also seeking that the words notable adverse effects be replaced with specific <u>indication of any specific hazards eg bee toxicity</u></p>	<p>During discussions with Horticulture New Zealand, following the receipt of submissions, they indicated that they could accept the use of the terms ‘<i>offensive or objectionable</i>’ if some guidance is included in the plan.</p> <p>I accept that some guidance around what offensive or objectionable means in the context of the plan could be useful.</p> <p>I recommend that guidance be inserted into an appendix of the plan.</p> <p>I recommend that the changes to “notable adverse effects” be accepted as it aligns with the wording in NZS8409.</p>	Insert a new appendix containing guidance on offensive or objectionable air discharges.
Rule C.6.5.1	Ko Te Hua Marae, Parapara Marae and Kurmann A and seek that all chemicals applied to farm land and forestry should be a discretionary activity because they are inhibiting the reproduction microbial life.	If granted, the relief sought would result in a huge change in practice for farming and forestry in Northland. In order to support this change, I would need to see sound evidence of the issue and for that to be supported by a cost benefit analysis. At this time, I have not seen this information. The submitter may wish to provide supporting information at the hearing.	No change
Rule C.6.5.1	<p>A and R LaBonte are seeking the following words to be added;</p> <p>Amend (1)(f) <u>“in addition, for spraying by any method in road and rail corridors, except where the road corridor is adjacent to the land owned by the person or their delegate carrying out the spraying activity:”</u></p>	<p>The submitter is seeking an exemption to public notification where a landowner is spraying the road corridor outside their own property.</p> <p>It seems reasonable that the sprayer would not have to notify themselves, however I believe the public and other nearby properties should be made aware of the spraying. Without knowledge that spraying has occurred members of the public may unwittingly expose themselves to agrichemicals.</p>	No change

<p>Rule C.6.5.1</p>	<p>Royal Forest and Bird are seeking the following amendments:</p> <p>Amend condition</p> <p>1) b) as follows: “<i>there is no direct discharge into <u>or onto</u> water, and</i>”</p> <p>Add new condition: “<i>1) x) <u>there is no direct application to hard surfaces including roofs or concreted areas, which drain directly to water.</u></i>”</p> <p>Add new condition 2) x) and 3)x) “<i><u>The discharge is not undertaken where it can affect a significant ecological area.</u></i>”</p>	<p>The submitter raises several points in relation to rule C.6.5.1. The first submission point seeks that the words <u>or onto</u> water are added. I support this amendment.</p> <p>The second point raised is that the plan should include a clause preventing discharge of agrichemicals to ‘<i>hard surfaces</i>’ which drains directly to water. I assume that this clause is intended to maintain water quality. However, the submitter has not provided any discussion on this point or evidence to demonstrate it is necessary. This makes it difficult to assess the merits of the proposal. The submitter may wish to provide more information at the hearing.</p> <p>The submitter is seeking a new clause to prevent agrichemical application where it can affect significant ecological areas.</p> <p>There are no rules restricting the discharge of agrichemicals in significant ecological areas (SEA’s). I believe this is a regulatory gap that should be addressed in the plan.</p> <p>To be clear, significant ecological areas are mapped in the Proposed Plan. They only occur in the CMA. They do not include wetlands or areas of high ecological value on land.</p> <p>Rule C.6.5.1 only applies to the intertidal area. Agrichemical use seaward of the intertidal area is managed under Rule C.6.5.2.</p> <p>In my opinion, there are two main options for managing agrichemical application in SEA’s. Firstly, the plan could require resource consent for any application of agrichemicals in these areas. Secondly the plan could allow for agrichemical application but only for pest species i.e. no damage or destruction of indigenous flora or fauna.</p>	<p>Amend Rule C.6.5.1 as shown in Proposed <i>Regional Plan for Northland – S42A</i> recommended changes.</p>
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Provision	Summary of main submission points	Discussion	Recommendation
		I believe either option is reasonable however my preference is to provide for agrichemical application to manage non-native species as a permitted activity.	
Rule C.6.5.2	Mallittee J requests Spraying on private landowner's boundaries and into drains and waterways be banned.	In my view, the proposed Plan contains adequate controls to manage the issue raised or to take enforcement action if the conditions are breached.	No change
Rules C.6.5.1, C.6.5.2 and C.6.5.3	Miru M has expressed a general opposition to agrichemical spraying being a permitted activity and has requested setbacks from areas of significance to tangata whenua and notification of tangata whenua for spraying in these areas.	The submitter has not provided any information on how areas of significance to tangata whenua would be affected by agrichemical use. This makes it difficult for me to oppose or support the relief sought. The submitter may wish to provide more information on this matter at the hearings.	No change
Rule C.6.5.2	Northland Fish and Game Council have requested that the words ' <i>excluding pest species</i> ' are deleted from 2) h).	The submitter has not provided any justification for the amendments. Therefore, I do not understand why the amendments are required and cannot support the deletion.	No change
Rule C.6.5.2	Minister of Conservation is seeking amendments to permit the use of agrichemicals in the CMA to control pest species and to control exotic vegetation.	<p>I am open to supporting the relief sought by the Minister of Conservation.</p> <p>At this time, I don't have the information to fully assess the relief sought.</p> <p>Further information on the locations and species likely to be sprayed would be useful. It would also be useful to know if agrichemicals are likely to be sprayed directly into water or if spraying is likely to be applied to animals / plants over water or animal / plants in the intertidal area.</p>	No change

<p>Rule C.6.5.3</p>	<p>The Minister of Conservation requests amends to C.6.5.3 as follows:</p> <p><i>The ground-based application of vertebrate toxic agents to land, <del>that are not exempt from Section 15 (4) by the Resource Management (Exemption) Regulations 2017 – Pest Control, is a permitted activity provided:</del></i></p> <p><i>Amend 1) the substance <u>is used</u> as approved <del>for its intended use</del> by the Environmental Protection Authority under the Hazardous Substances and New Organisms Act 1996, and</i></p> <p><i>Delete 2)</i></p>	<p>The Resource Management (Exemption) Regulations came into force on 1 April 2017. The regulations exempt certain vertebrate toxic agents from section 15 of the RMA provided certain conditions are met.</p> <p>It is my understanding that when the conditions of the regulation are not met then the use of those vertebrate toxic agents are then subject to section 15 of the act and regional plan provisions.</p> <p>I agree with the submitter in that the regulations supersede regional rules and don't need to be mentioned in the plan. However, I believe including a reference to the regulations in the rule will help plan users understand that the regulations are in place and that where conditions of the regulations cannot be met that the activity is subject to this rule. I have suggested minor changes to the rule to improve readability.</p> <p>The submitter is seeking minor amendments to condition 1. I believe the amendments improve the readability of the rule and should be adopted.</p> <p>In addition to the relief discussed above the submitter believes that existing controls on vertebrate toxic agents adequately manages the risk to drinking water supplies. It is not clear from the submission but I assumed they are referring to controls imposed by the EPA under HSNO.</p> <p>Where possible, I believe we should avoid duplicating controls put in place under HSNO and Worksafe New Zealand. Council staff have previously expressed concern that national regulation has not adequately addressed the risk of these contaminants entering human and animal drinking water. Which is why the condition has been proposed.</p>	<p>Amend Rule C.6.5.3 as shown in Proposed <i>Regional Plan for Northland – S42A</i> recommended changes.</p>
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Provision	Summary of main submission points	Discussion	Recommendation
		Further information on the controls the submitter refers to would be useful to help me better understand assess the proposal.	
C.6.5.4	Fish and Game are seeking amendments to the matters of control to include defining separation distances. Northland Fish and Game would like to be notified as an affected stakeholder,	From the submission, it is not immediately apparent to me what changes the submitter is seeking. The submitter has not provided specific words which makes it difficult for me to support or oppose their relief.	No change
Rules C.6.5.4 and C.6.5.5	Leonard B has requested that this rule be deleted.	The submitter has not provided justification for why the rule should be deleted. I am unable to adequately assess the request without this detail. I am therefore unable to support or oppose the relief sought.	No change
Rule C.6.5.5	Horticulture New Zealand are seeking that <i>agrichemicals</i> be deleted from clauses 1) and 2)	This is a consequential amendment to a request to introduce a new restricted discretionary rule for agrichemical application. I do not support the inclusion of a restricted discretionary rule and therefore do not support the consequential changes to C.6.5.5.	No change