

Guide to agrichemical use in Resource Management Plans

Tasman Region

As at June 2017

Disclaimer: This Guide is intended to assist users and applicators to understand the requirements relating to agrichemical use in the relevant regional plans in your Region. Every effort has been made to ensure the accuracy of this information but the responsibility for ensuring that the requirements of councils are met is with the applicator and user of agrichemicals.

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1. Structure of plan requirements

The Tasman District is a unitary council, meaning that it covers both regional council functions relating to discharges to air, land and water and district council functions, including land use storage.

Under the Tasman Resource Management Plan (TRMP) agrichemical application is a permitted activity, ie you do not need a resource consent if you follow the rules:

- Rule 36.6.2 Discharge of Pesticides to Land, Water or Air
- Rule 36.6.2.1 addresses discharges to land, water or air.

If the rules cannot be met then a resource consent under Rules 36.6.2.2 or 36.6.2.3 will be required from the Council.

The Plan also includes a number of additional requirements and information:

- Rule 16.7 3 Storage of Hazardous substances
- Rule 36.6.4A Discharge of contaminants from outdoor burning
- Guidelines for outdoor burning
- Guidelines for storage of hazardous substances.

Definitions

Key words are identified in this Guide by *italics* and their formal definitions from the Plan are listed in section 5 of this Guide. It should be noted that the Tasman plan refers to pesticides rather than agrichemicals. The definition for *pesticides* is in the definitions section of this guide.

Status of plan

The Tasman Resource Management Plan is partly Operative but the provisions referred to in this Guide are operative meaning that the current version cannot be changed except through a publicly notified Plan Change.

The link to the Tasman District Council website and the plan is:

<http://www.tasman.govt.nz/policy/plans/tasman-resource-management-plan/resource-management-plan-volume-1-text/resource-management-plan-part-vi-discharges/#34>

2. Specific notes for users

Onus of responsibility

An important issue in terms of compliance with a Regional Plan is to be clear as to 'who' is responsible for 'what'. Some plans have conditions (e.g. notification) which are the responsibility of the 'landowner or occupier'. Other conditions (e.g. records) may be the responsibility of the 'discharger' or 'applicator'. Sometimes it may be either 'landowner' or 'applicator'. Usually such terms are defined in the Plan so it is clear who should be undertaking particular activities. However, there are times where it is not clear who should be carrying out a task. If the landowner or manager is the person undertaking the spraying then all the responsibility is with that person. However, it is recommended that where a landowner or manager engages or employs someone else to undertake the spraying that it is clearly set out who will undertake particular responsibilities required by the Plan. In the event of a spray drift incident the Council will be seeking to confirm who undertook such matters as notification or keeping of records. A paper trail in this respect will be useful.

NZS8409:2004

Policy 34.2.20.2 and the Explanation 34.2.30 refer to NZS 8409 1995 Code of Practice for the Management of Agrichemicals as providing information and guidelines that can be an effective way to avoid, remedy or mitigate adverse effects of pesticide use. While this is not a mandatory requirement users are directed to NZS8409 as being best practice for agrichemical management.

Using this Guide

The summary tables below for each rule set out possible conditions that a Council may require in a permitted activity rule for agrichemical use. If a line is blank then it means that the Plan does not require anything on that issue.

3. 36.6.2.1: Discharge of pesticides

Permitted activity conditions	What the rule requires
Type of use	The discharge of pesticides to land, water or the air.
Area of use	
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions 36.6.2.1 a)	The pesticide is prepared and applied in such a manner that does not exceed any rate (including equivalent rate per hectare), or contravene any other requirement specified on the product label.
Drift beyond the boundary 36.6.2.1 g)	<p>The discharge must be undertaken in a way that no drift moves over any adjoining property that is a:</p> <ul style="list-style-type: none"> • school, early childhood facility or their grounds; or • place of public assembly including any public reserve, sports field or children's playground; or • property registered as BioGro as an organically farmed property that was registered prior to any discharge activity commencing; or • dwelling or within 30 metres of a dwelling, unless there is mutual agreement between the discharger and the occupier of the dwelling. <p>When the wind conditions are such that the pesticide may drift onto any adjoining property that is not listed above then:</p> <ul style="list-style-type: none"> • The person who discharges must: <ul style="list-style-type: none"> • Hold the GROWSAFE® Standard Certificate • Ensure that there is no discharge when wind speeds are more than 15kms per hour • During time of discharge signs must be placed on any road adjacent to the site of discharge; and • There is to be no discharge point closer than 30 metres from the property boundary; or • The owner or occupier of the property where the discharge is taking place must ensure that there is a spray belt along the boundary of every adjoining property onto which pesticide drift may drift. <p>EXCEPT</p> <p>Where other pesticide drift management arrangements have been mutually agreed between the owner or occupier of the property where the discharge is to take place, or the person who discharges or who causes the discharge, and the owner or occupier of any adjoining property.</p> <p>NOTE: A GROWSAFE® Standard Certificate is now the GROWSAFE® Introductory Certificate.</p>
36.6.2.1 j)	

Status of NZS8409	No requirements to comply with NZS8409 but it is referred to in Policy 34.2.20.2 and Explanation 34.2.30.
Qualifications or training 36.6.2.1 e) 36.6.2.1 j)	<p>1. A contractor must have either:</p> <ul style="list-style-type: none"> • a GROWSAFE® Registered Chemical Applicators Certificate; or • hold a GROWSAFE® Agrichemical Rating (pilots); or • holds a similar qualification; or • be under direct supervision of person holding any of those qualifications. <p>2. When wind condition are such that drift may occur to adjoining properties then GROWSAFE® Standard Certificate is required.</p>
Notification 36.6.2.1 h)	<p>Notification is required to occupiers of adjoining properties not listed under the drift provisions above:</p> <ul style="list-style-type: none"> • when any point of the discharge is within 30 metres of the adjoining property; and • when wind conditions are such that the pesticide may drift onto any adjoining property. <p>Notification must in writing no more than 3 days and no less than 8 hours before and include:</p> <ul style="list-style-type: none"> • details of the types of pesticide to be used • the likely timing of the discharge programme; and • a description of the method of the discharge • an indication of any discharge that may take place when the weather conditions are such that the subsequent risk of fungal disease places any crop at risk of damage. <p>EXCEPT</p> <p>Where other notification arrangements have been mutually agreed between the person who discharges and any occupier of the adjoining property; or</p> <p>When the weather conditions are such that subsequent risk of fungal disease places any crop at risk of damage, notification must be verbal or written given no less than 2 hours before the discharge is to take place.</p>
Spray Plan	Notification requirements specify information to be made available
Signage j i) c)	When likely to be drift signs must be on roads adjacent.
Records 36.6.2.1 f)	<p>The person undertaking the discharge must keep records for all applications (other than by hand held and wick booms) for at least 12 months.</p> <p>Records must include:</p> <ul style="list-style-type: none"> • the target pest • type of pesticide used • volume and concentration discharged

	<ul style="list-style-type: none"> • location of the discharge and area of land over which the pesticide is sprayed • method of discharge • date and time of discharge • weather conditions during spray operations • any particular steps taken to avoid, remedy or mitigate any adverse effects beyond the property boundary. <p>Records must be supplied to the Council on request.</p> <p>NOTE: Records for complying with GROWSAFE® Standard (NZS8409) will be accepted as compliance with TDC requirements.</p>
Public places or amenity areas or sensitive areas 36.6.6.2.1 b)	<p>The application is not onto land open for lawful public access, including any road, public park or reserve:</p> <p>EXCEPT:</p> <ul style="list-style-type: none"> • For hand placement or spraying using a hand held non-motorised knapsack sprayer or weed wiper; or • Where an owner or occupier of any property adjoining the land discharges or causes the discharge to be undertaken by hand-held method onto any land at any point adjacent to the boundary with the property. <p>36.6.2.1.d)</p> <p>No discharge into water supply catchment areas or any roof or water collection structure.</p>
Storage	<p>Storage means a hazardous facility. Under Rule 16.7 A hazardous facility is a permitted activity that may be undertaken without a resource consent, if it complies with the specified conditions: However adherence to NZS8409:1999 the Code of Practice for the Management of Agrichemicals (or more recent edition) is a means of compliance</p>
Mixing sites	
Applications to or near water 36.6.2.1 c)	<p>No discharges of pesticides:</p> <ul style="list-style-type: none"> • onto the bed of any river or lake, or into the coastal marine area; or • onto or into any water body or coastal water; or • applied in such a way as to form run-off or drift into a water body or coastal water <p>UNLESS the product label specifically states that the application can be made directly into or onto fresh water or coastal water.</p>
Disposal Rule 36.3.2.3 j)	<p>Outdoor burning of agrichemical containers is permitted where they are triple rinsed and a 2 or 4 recycling triangle is on the container: EXCEPT where a product stewardship programme is in place (e.g. AgRecovery) in which case no plastic is to be burnt.</p>

4. Spray Plan requirements

Rule 36.6.2.1 does not specifically require that a spray plan be prepared but such a plan would assist in meeting the notification requirements in the Plan.

Appendix M4 of NZS8409:2004 Management of Agrichemicals sets out what should be included in a spray plan. A template for a Property Spray Plan based on Appendix M4 can be found on the GROWSAFE® website: www.growsafe.co.nz.

The Spray Plan should be prepared by the owner, occupier or manager of the property or the applicator and include the following:

1. Address and phone of property owners/occupiers, property manager and registered chemical applicators.
2. Address and phone number of neighbours and status (owner/occupier)
3. Roads adjacent to the property boundary and roads used for school bus routes
4. Identification of area to be sprayed, size of area and target (e.g. crops) to be sprayed
5. Types of agrichemicals that are likely to be used during the year, classifications, potential hazard and times of year that spraying is likely to occur
6. Description and location of any sensitive areas (see definition below)
7. Strategies to be used to avoid spraydrift on sensitive areas
8. Factors to be considered before spraying (e.g. weather conditions)
9. Factors that may increase spray hazard potential (refer to Potential Spray Drift Hazard Chart from NZS8409:2004 Appendix G and 6.2.9 of the Plan).

5. Definitions

Adjoining land – includes land that is separated from any other land only by a title **boundary**, road, drain, water race, **river** or stream.

Boundary –any boundary of the net area of the site and includes any road boundary, side or internal boundary

Contractor – in relation of discharge of pesticides, means any person who, by agreement with the owner, occupier, or manager of any land, applies or causes to be applied any pesticide for hire or reward, but does not include any employee, owner, occupier, or manager of or in relation to the land to which the pesticide is to be applied.

Dwelling –a building or part of a building for a single self-contained housekeeping unit, whether of one or more persons (where single self-contained housekeeping unit means a single integrated set of sleeping, ablution and cooking facilities).

Growsafe Agrichemical Rating –a rating that is administered by the NZ Agrichemical Education Trust and is awarded to pilots after successful completion of the GROWSAFE® training course for pilots carrying out aerial application of pesticides.

Growsafe Standard Certificate – a certificate that is administered by the NZ Agrichemical Education Trust, and is awarded following successful completion to the GROWSAFE® Standard training course. (This certificate is now been renamed GROWSAFE® Introductory Certificate.)

Hazardous facility –any activity on a site involving the use, storage, or disposal of any hazardous substance, and includes any installation or vehicle parked on the site that may contain any hazardous substance. A list of exemptions is given in the plan.

Outdoor burning –the open combustion of any material in the open air, and includes any fire or bonfire or burning of material in a drum or incinerator where there is no chimney stack nor provision to control air flow to the fire.

Pesticide –any substance that is used to eradicate, modify or control flora or fauna that: is a hazardous substance under the Hazardous Substances and New Organisms Act 1996 having any of the following intrinsic properties:

- toxicity (including chronic toxicity)
- ecotoxicity (with or without bioaccumulation); or
- on contact with air or water generates a substance which has any of these properties; and includes herbicides and fungicides but excludes any fertiliser or animal remedy.

Property – land held by a person in one or more adjacent certificate of title and includes land that is traversed by a road, whether formed or unformed.

Shelter belt – a line or area of vegetation which at maturity, will be three metres or more in height and which is established to provide shelter from weather and includes a spray belt.

Spray belt – a line of vegetation which at maturity is:

- a minimum of one metre thick; and
- a minimum of six metres high; and
- a mixture of species, including one or more evergreen species; and
- semi permeable with a porosity of no more than 50 %; and
- more than one row of plantings.

Note: the spray belts will need to be higher than the height at which a pesticide discharge occurs, and where this is more than 6 metres, other Plan rules that regulate the height of spray belts and shelter belts will also apply.

Storage – in relation to hazardous substance, means the containment of a substance or mixture of substances, either above ground or underground, and includes the filling and emptying of containers. 'Storage' does not include substances in use or oil used as a heating or cooling medium in enclosed systems.

Use – in relation to any hazardous substance, means the manufacturing, processing or handling of a substance or mixture of substances without necessarily changing the physical state or chemical structure of the substance. 'Use' includes mixing, blending and packaging operations, but does not include the filling or drawing of substances from bulk storage tanks, unless the processing is permanently connected to the bulk storage and does not include loading out and dispensing of petroleum products.

Water body - fresh water or geothermal water in a **river, lake**, stream, pond, **wetland**, or aquifer, or any part thereof, that is not located within the coastal marine area.

Note: The definition of water body is further defined in the definitions of river, lake and wetland:

- **River** - a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)
- **Lake** - a body of fresh water which is entirely or nearly surrounded by land
- **Wetland** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.