

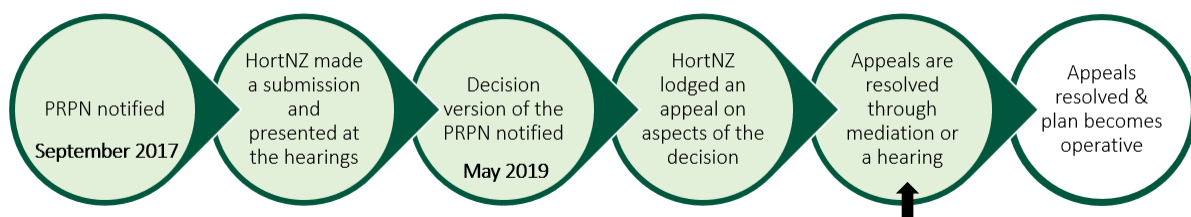
Update on the Proposed Regional Plan for Northland

Northland Region | July 2020



What is the Proposed Regional Plan for Northland?

- The Proposed Regional Plan for Northland (“PRPN”) is a new regional plan that will replace the three existing regional plans that manage the coast, soil, discharges to land, fresh water and air. The regional plan(s) set the direction for the use of natural resources in the region.
- Since 2017 HortNZ has been involved in the development of the PRPN, telling the horticulture story and promoting outcomes that enable growing. HortNZ’s involvement has included comments at early draft stages, meetings with growers, making a submission on the PRNP, making further submissions on changes other parties sought, and presenting at hearings.



- **A decision version of the PRPN was notified in May 2019** (from this date the plan reflected the decisions made by a panel of hearing commissioners, taking into account submissions and hearing evidence). **Even though the PRPN is still called ‘proposed’, the objectives, policies and rules in the plan apply.**
- The PRPN is in the appeals stage (see diagram above). HortNZ lodged an appeal on aspects of the decision (and also joined a number of appeals by other parties) and has been participating in mediations to try and reach resolution – an update is provided below.

What does it mean for growers?

As noted above, even though the plan is “proposed” the objectives, policies and rules in the plan apply. As aspects of the decision are subject to appeal, the existing plans still remain relevant for activities where decisions on the PRPN have been appealed to the Environment Court (until the appeals are resolved). As a basic guide:

- Where there are no appeals on a rule – the PRNP applies and supersedes other rules.
- Where part of the plan is subject to appeal – both the current operative regional plans and the PRPN apply.
 - *The [appeal version](#) of the plan notes whether a provision is subject to appeal (the rules are ‘greyed out’).*
 - *In this situation, Northland Regional Council enforce both sets of rules with the strictest requirement generally prevailing.*

How the new rules apply will vary according to the status and nature of the activity:

Current consented activities: If you already have a resource consent, the new plan will only become relevant if, or when, you need to renew your consent (or if your consent conditions are reviewed).

Existing permitted uses or new activities: Some activities may have limited existing use rights (for 6 months after a rule becomes operative, until a resource consent is sought) under Section 20A of the RMA – we recommend seeking advice from the Council or a planning consultant if you think this might apply. Otherwise:

- You will need to determine if your activity meets the permitted activity standards for the activity in the Plan.
- If it doesn't, you will need to apply for a resource consent. The Council will consider the objectives and policies of the Plan and how adverse effects of the activity can be managed or mitigated.

The PRPN (appeal version) can be accessed on Northland Regional Council's [website](#) – this is progressively updated to reflect the most up-to-date provisions once appeals are resolved.

What does the plan cover?

The plan has rules, objectives and policies for managing soil, freshwater, discharges to air and water and the coastal environment. A summary of the rules most relevant to horticulture is provided below.

Navigating the PRPN

- The rules, objectives and policies, and definitions are all contained in the plan.
- With the exception of some catchment specific rules, the rules in the plan apply region wide. However, there are some mapped 'management areas' referred to within some rules e.g. erosion prone land, airsheds, water quality and quantity management units – the maps can be viewed online [here](#).

If the activity is listed as a Permitted Activity and meets the applicable permitted activity standards = resource consent is not required.

Resource consent is required if:

- If your activity does not meet the permitted activity standards
- If your activity is listed as a Controlled, Restricted Discretionary, or Discretionary Activity.

If you need assistance reading the plan or understanding whether you need consent, please contact the Northland Regional Council or your local planning consultant.

Update on appeals

The table below highlights the chapters most relevant to horticulture and provides an update on appeal points.

If you need assistance reading the plan or understanding whether you need consent, please contact the Northland Regional Council or your local planning consultant.

When appeals are resolved through mediations, a consent order is prepared and signed off by the Environment Court. Rules in consent orders are operative (any previous rule no longer applies). Consent notices are uploaded on NRC's [website](#). To date there have been no Environment Court hearings to resolve appeals on the plan.

Chapter of the Plan	Still subject to appeal/unresolved	Appeal(s) resolved - Operative
C.2 Activities in the beds of rivers and lakes and affecting wetlands:	<p>Appeals are not yet resolved, including on the following provisions:</p> <ul style="list-style-type: none"> • Rule C.2.1.3. (Maintenance of the free flow of water in rivers and mitigating bank erosion – permitted activity). • During submissions and hearings HortNZ raised concerns that the definition of wetlands captured farm drains and sediment traps. HortNZ has an appeal relating to this aspect – these outcomes are yet to be signed off. 	

<p>C.3 Rules for damming and diversion of water:</p>		<p>Appeals resolved by consent notice - the rules in C.3 are all <u>operative</u> (therefore, the previous plan rules no longer apply).</p> <ul style="list-style-type: none"> • <i>Permitted rules apply to damming or diversion of water of rainfall runoff or in an artificial watercourse, small dams, existing in-stream dams of a certain scale and for dam maintenance (subject to permitted activity conditions).</i> • <i>Larger existing-instream dams, reinstatement or restoration of natural flow in a river, river channel diversion and any other damming or diversion require resource consent.</i>
<p>C.4 Land drainage and flood control:</p>	<p>C.4.1.1 and C.4.1.9 are still subject to appeals</p> <ul style="list-style-type: none"> • HortNZ is a party to appeals on these provisions, which related to land drainage. <p>These are expected to be able to be resolved without a hearing.</p>	
<p>C.5 Rules for production land discharges and on-site wastewater discharges:</p>	<p><i>Rules for production land discharges</i></p> <ul style="list-style-type: none"> • Rule C.6.3.2 (Horticulture wastewater discharges to land) –subject to appeal and yet to be resolved. <p><i>On-site domestic wastewater discharges</i></p> <ul style="list-style-type: none"> • There are operative rules applicable to on-site domestic wastewater discharges (this includes orchard or field toilet facilities). 	
<p>C.5/C.7 Agrichemicals and discharges to air</p>	<p>HortNZ has an appeal on the two permitted activity rules for agrichemical application (to land, and to water) seeking more practical provisions.</p> <ul style="list-style-type: none"> • A lot of valuable grower feedback has been provided on these provisions. Resolution is yet to be reached (progress has slowed somewhat due to disruption from Covid-19). We will provide further updates as this issue progresses. <p>There are also rules applicable to burning (which remain subject to appeal) and discharges to air from industrial and trade premises (also subject to appeal).</p> <p>HortNZ has an appeal on Objective F.1.12 which relates to air discharges – this appeal has been resolved, but is not yet signed off by the Court. Therefore, it is not operative yet.</p>	
<p>C.8 Land use and disturbance activities:</p>	<p><i>Land preparation (which includes cultivation)</i></p> <ul style="list-style-type: none"> • Rule C.8.2.1 Land preparation – permitted activity, remains unresolved. HortNZ is a party to this appeal (which may require a hearing). 	<p>The appeal to the <u>definition of land preparation</u> has been resolved (amended to clarify exclusion of drainage).</p>

	<p><i>Earthworks</i></p> <ul style="list-style-type: none"> Two earthworks rules (C.8.3.1 and C.8.3.2) remain unresolved, HortNZ is a party to appeals on these provisions. <p><i>Vegetation clearance</i></p> <ul style="list-style-type: none"> The definition of vegetation clearance is subject to appeal and remains unresolved, HortNZ is a party to appeals. Two rules for vegetation clearance – C.8.4.1 (in relation to coastal areas) and C.8.4.2 (in relation to riparian areas) remain subject to appeal – HortNZ a party to an appeal on the latter rule. 	<p>The appeal on the <u>definition of earthworks has been resolved</u> (amended to distinguish between and exclude, related activities such as land preparation and vegetation clearance) and Policy <u>D.4.26</u> (amended to reference to ‘aquatic specific’ replaced with ‘indigenous biodiversity’.</p> <p>The rules which regulate bores were not subject to appeal so are operative;</p> <ul style="list-style-type: none"> <i>Temporary bores for groundwater investigation, bore decommissioning and bore alterations (that don’t change depth) are permitted, subject to conditions.</i> <i>Otherwise, constructing or altering a bore requires a resource consent.</i>
<p>Water quantity and rules for taking water:</p>	<ul style="list-style-type: none"> The decision version policies provide support for rootstock survival water at times of low flow (<i>subject to appeal</i>), however it requires resource consent as a non-complying activity (<i>subject to appeal</i>) The take of water that exceeds an allocation limit is a non-complying activity (<i>subject to appeal</i>) <ul style="list-style-type: none"> HortNZ are a party to appeals by other parties on these provisions and continue to be involved in discussions to reach resolution. <p><i>It is likely that a hearing will be required to resolve some of the appeals on this topic.</i></p> <p>The plan also includes:</p> <ul style="list-style-type: none"> Minimum flows and levels for rivers, lakes and natural wetlands Allocation limits for rivers and aquifers Requirements for managing groundwater and surface water connectivity during water take 	<p>Some of the appeals to which HortNZ was a party to have been resolved:</p> <ul style="list-style-type: none"> <u>Objective F.1.1</u> details the outcomes sought by managing take, use, damming and diversion of freshwater, changes were made to include reference to the health of freshwater ecosystems, specific reference to trout and a specific exclusion for Marsden Point Refinery. <u>Policy D.4.16</u> relates to water user groups, a minor change was made to clarify that water user groups should be specific to catchments and to include reference to real-time metering.
<p>Water quality:</p>	<ul style="list-style-type: none"> The remaining water quantity provisions (except Objective F.1.2) that are subject to appeals are unresolved. <p>The plan also includes:</p> <ul style="list-style-type: none"> Water quality standards and guidelines for continually or intermittently flowing rivers and for lakes Coastal water quality standards Coastal sediment quality guidelines (relevant for any discharge of contaminants into coastal water or surface water flowing to coastal water) <p><i>It is likely that a hearing will be required to resolve some of the appeals on this topic.</i></p>	<p>The appeals on <u>Objective F.1.2</u>, which details the outcomes sought for fresh and coastal water quality, have been resolved (wording tweaks were made to remove the term ‘overall’ and include reference to the health of freshwater ecosystems)</p>