

## Proposed Plan Change 13 - Air Quality – to the Regional Natural Resources Plan



### Submission Form

Send your submission to reach us by 4.00 pm on Wednesday, 18 April 2018

Submission Number  
*Office use only*

021

<b>Post:</b> The Chief Executive Bay of Plenty Regional Council PO Box 364 Whakatāne 3158	<b>or Fax:</b> 0800 884 882	<b>or email:</b> air@boprc.govt.nz
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#### Submitter Name:

This is a submission on **Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan**

I **could/could not** gain an advantage in trade competition through this submission. *[Delete as required.]*

(a) I  **am not** directly affected by an effect of the subject matter of the submission that adversely affects the environment; and

(b) My submission  **does not** relate to trade competition or the effects of trade competition.  
*[Delete the entire paragraph if you could submission.]*

2 The details of my submission are

3 I wish  **wish** to be heard in support of my submission. *[Delete as required]*

4 If others make a similar submission, I will consider presenting a joint case with them at a hearing. *[Delete if you would not consider presenting a joint case.]*

#### Submitter: Jodie Bruning

- jodie@rite-demands.org - Ph 027 505 0808 - 441 Whakamarama Rd, Tauranga, 3179
- The specific provisions I am submitting to, are documented below.
- I require amendments to the Proposed Plan Change 13 and new inclusions as listed below. Supporting documentation will be provided when I am able to speak and give evidence to the submission.
- I wish to speak and give evidence.

#### Key Points

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- It is reasonable to consider that BOPRC will utilize and make available new technologies (E.g. detection and monitoring) so that sensitive sites; vulnerable citizens and vulnerable businesses may be protected from adverse effects. Current approaches restricting consideration to wind speed and direction are obsolete.
- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of *Bay of Plenty Regional Council* (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.
- Recognition that this Air Plan must be future proofed and reflect the state of science in 2018.

## 1. Objectives to be amended:

### **AQ O3 Local air quality — Te pai o te hau o te rohe**

*Replace the following:*

Manage discharges of contaminants to air according to their adverse effects on human health, cultural values, amenity values and the environment.

*With:*

**AQ O3** Avoid, remedy or mitigate the adverse effects of all discharges of contaminants into air on the environment which includes the effects on: ecosystems, human health and safety, crops and livestock, amenity values, cultural values and the environment.

## Proposed Objectives – Insert:

### **AQO4 Ensure the life-supporting capacity of water, soil and ecosystems is safeguarded**

Avoid, remedy or mitigate the adverse effects of bioaccumulation in water and soil systems from discharges of contaminants into air so that the life-supporting capacity of water, soil, and ecosystems are safeguarded.

### **AQO5 Protect the foreseeable needs of future generations**

Safeguard water, soil and ecosystems so that future generations may provide for their social, economic, and cultural well-being and for their health and safety. Where long term harm arising from discharge of contaminant is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm and a precautionary approach shall be taken.<sup>1</sup>

### **AQO5 Commitment to best practice science for monitoring, detection and restriction of discharges of emerging organic contaminants.**

Encourage and develop best international practice science for monitoring; detection and restriction of discharges into air, and resultant residues in water, soil and ecosystems of emerging organic contaminants.

## 2. Policies to be amended

### **AQ P2 Hazardous substances — Ngā matū mōrearea**

*Insert:*

- (a) Ensure Hazardous Substances environmental exposure limits (EEL) are not breached in sensitive areas.
- (b) Utilise best practice technology to test for harmful concentration of Hazardous Substances beyond the boundary area and mitigate where necessary.

### **AQ P3 Management of discharges — Te whakahaere i ngā tukunga**

Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:

*Replace the following:*

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<sup>1</sup> UNESCO definition of the Precautionary Principle.

(e) minimise the discharge of contaminants into areas beyond the boundary of the subject property where it may cause adverse effects on human health, cultural values, amenity values, or the environment.

*With:*

(e) **avoid** the discharge of contaminants into areas beyond the boundary of the subject property and **ensure environment exposure levels/limits are not exceeded in sensitive areas where contaminant drift** may cause adverse effects on human health, cultural values, amenity values, **incompatible industries**, or the environment.

*And include:*

(f) Prevent contamination of marine and freshwater and sediments therein from adverse harm as a result of discharge of contaminants into air; and ensure environmental limits in marine and freshwater and sediments as a result of discharges of contaminants into air do not exceed ANZECC guideline limits.

#### **AQ P4 Matters to consider — Ngā take hei whiriwhiri**

(h) Adoption of advanced monitoring and detection technologies to ensure sensitive areas are not exposed to contaminants as a result of drift or volatilisation and the public are protected, particularly children.

#### **AQ P8 Agrichemical spraying — Te tōrehu matū ahuwhehua**

*Replace the following:*

(b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible

*With:*

(b) **avoid** the discharge of contaminants into areas beyond the boundary of the subject property and **ensure environment exposure levels/limits are not exceeded in sensitive areas where contaminant drift** may cause adverse effects on human health, cultural values, amenity values, **incompatible industries**, or the environment.

*And include:*

(d) Utilize best practice technology to test for harmful concentration of agrichemical beyond the target area and ensure environmental exposure limits (EEL<sup>2</sup>) are not breached.

(e) Private applicators of agrichemicals on private naturestrip/verges/berms to be encouraged to place a sign on their verge for three days following the agrichemical application to protect the public, and particularly dogs and children.

### **Proposed Policy – Insert:**

#### **AQ P11 – Roadside and Utility Agrichemical Applications**

Where possible roadside applications must be minimised due to:

(a) Runoff from drains into watercourses results in contamination of marine and freshwater environments and sediment.

<sup>2</sup> NZS 8409 (2004) (English): Management of Agrichemicals Code of Practice.

(b) Recognition that herbicide spraying along roadsides facilitates erosion along roadside drainage surfaces.

(c) New knowledge that commonly used herbicides are more toxic than previously recognised and that children are common users of roadside verges

(d) Acknowledgement of the difficulty of contractors adequately signposting to warn of agrichemical use while the applied agrichemicals are still toxic and have not degraded.

**AQ P12 Soil fumigation prohibited close to sensitive sites areas where susceptible members of society are present or confined.**

(a) Fumigation prohibited within 400 m of any sensitive and difficult to evacuate site where the public may lawfully be present, such as schools, playgrounds, early childhood centres, prisons, hospitals and long-term care facilities

(b) The restriction (a) applies to any regional agrichemical or other industry operation seeking to fumigate that has not undertaken a fumigant operation before publication of Plan Change 13 (Air Quality)

(c) Restriction in place due to fumigant emissions exuding for several days after injection into soil<sup>3</sup>; knowledge that 'totally impermeable film' (TIF – referred to as 'plastic tarp') has been demonstrated to not contain all emissions and recognition that fumigants may travel further than previously estimated.<sup>4</sup>

(d) Due to no environmental data within New Zealand a precautionary approach is warranted.

**AQ P13 Continuous improvement in environmental monitoring of Hazardous Substances and EOCs.**

Commit to continuous improvement to ensure discharges of contaminants into air on the soil (sediment) and water are detected, monitored, and restricted using the best available science:

(a) Utilise best international scientific practice and technology for detection of Hazardous Substances and emerging organic contaminants.

(b) Ensure screens for Hazardous Substances and emerging organic contaminants include new and existing compounds typical to Bay of Plenty agricultural and industrial air discharges.<sup>5</sup>

(c) As a precaution, incorporate best practice regulatory international decisions to guide regional approval of Emerging Organic Contaminants (including agrichemicals) so that freshwater, soil and ecosystems are protected in the case of delayed decision-making in New Zealand.

<sup>3</sup> Ntow et al 2008 MONITORING OF CHLOROPICRIN FIELD EMISSIONS FROM SHANK APPLICATIONS AT SHALLOW AND DEEP INJECTION DEPTHS  
[http://www.crec.ifas.ufl.edu/extension/soilipm/2008MBAO/Ntow,%20William%20Joseph/Ntow,%20William%20Joeph%20\(30\)%202008%20Presentation.pdf](http://www.crec.ifas.ufl.edu/extension/soilipm/2008MBAO/Ntow,%20William%20Joseph/Ntow,%20William%20Joeph%20(30)%202008%20Presentation.pdf)

<sup>4</sup> 2015 Report Fumigant Pesticides Put Central Coast Communities At Risk  
<http://www.panna.org/sites/default/files/WatsonvilleFumigants201503FINALc.pdf>

<sup>5</sup> E.g. That these screens consider new and commonly used fungicides, miticides and insecticides used in Kiwifruit production.  
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(d) Ensure budget commitment for new scientific equipment for state of the art environmental monitoring to ensure environmental limits are not breached in sensitive areas; and marine and freshwater environments so that public and ecosystem health is protected.

(e) Facilitate access to information and testing equipment to ensure agrichemical drift has not breached environmental limits in sensitive areas NZS 8409:2004.

## Rules to be amended:

### AQ R15 Agrichemical spraying – Permitted — Tōrehu matūahuwhenua – E whakaaehia ana

#### (1) General use of agrichemicals

*Insert:*

(d) Ensure environment exposure levels/limits are not exceeded in sensitive areas where contaminant drift may cause adverse effects on human health, cultural values, amenity values, or the environment.

#### (3) Signage –

Recommendation: A increase in sign size based on recommended size used in USA legislation (see (f)).<sup>6</sup> Signage to be in place in public amenity areas to reflect the degradation of the active chemical.

Recommended that wording on signage change from ‘Caution spraying in progress’ to DANGER PESTICIDES’ to reflect not just danger during application, but danger due to residual active ingredients in the environment.

*Replace the following:*

3(a) Where agrichemicals are sprayed on public amenity areas signs must be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed, and must clearly state:

*With:*

3(a) Where agrichemicals are sprayed on **public places and public amenity areas (including active and passive reserves, and urban roadside verges)**, signs must be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed, and must clearly state:

*Replace the following:*

(2) (a) (ii) The name and type of agrichemical used

*With:*

(2) (a) (ii) The **registered brand name, active ingredient/s** and type of agrichemical used.

*Replace the following:*

(3) (d) Signs required by 3(a), 3(b) or 3(c) should remain in place until all airborne spray has settled and the agrichemical has dried on its target surface.

*With:*

<sup>6</sup> USA Legislation 40 CFR 170.120 - Notice of applications. <https://www.law.cornell.edu/cfr/text/40/170.120>  
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(3) (d) Signs required by 3(a), 3(b) or 3(c) should remain in place until all airborne spray has settled and the agrichemical has dried on its target surface **and the expected degradation of the active chemicals has occurred to where environmental exposure limits (EELs) will not be exceeded.**

*Insert:*

(f) New Signage standards to be uniform by 2020.

(a) All signage to have 'DANGER PESTICIDES in large font (minimum of 3cm high).

(b) The standard sign size is 35x40cm.

(c) Sign colour – white with red and black writing

#### **(4) Notification**

*Replace the following:*

(a) (i) name and type of agrichemical to be applied

*With:*

(a) (i) The **registered brand name, active ingredient/s** and type of agrichemical used.

*Replace the following:*

(e) Where agrichemicals are sprayed on public amenity areas, the owner/occupier or agent must publicly notify the agrichemical spraying using an appropriate method from at least 24 hours prior, up to one week prior to the agrichemical use. Notification must include the following information:

(i) The name and type of agrichemical used.

(ii) A start and end date for spray operations.

(iii) Contact details of the authority responsible for the spraying.

*With:*

(e) Where agrichemicals are sprayed on **public places**<sup>7</sup> and amenity areas (including active and passive reserves, and roadside verges), the owner/occupier or agent must provide the information to the Territorial Authority for listing on a public website which lists agrichemical spraying using an appropriate method from at least **3 days** prior to the agrichemical use.<sup>8</sup> Notification must include the following information:

(i) The **registered brand name, active ingredient/s** and type of agrichemical used.

(ii) A start and end date for spray operations.

(iii) Contact details of the authority responsible for the spraying.

(iv) Links to data providing expected degradation of active ingredient/s

*Note:*

<sup>7</sup> NZS 8409 (2004) (English): Management of Agrichemicals Code of Practice.

<sup>8</sup> Unlike agrichemical sprays on agrichemical crops, agrichemical applications in public places are not precisely time dependent and exposure to the public carries demonstrated risk. Therefore due notice of the intended spray is reasonable and precautionary. Note also that NZS 8409: 1999 requires that the public is notified 1 week before application.

*(iv) this may be static information contained on the TA website*

*(e) has been amended from 24hrs to 3 days as public sprays are not time dependent and 'urgent' as horticultural and farming practices may be, and the risk to the public and particularly children must be at the forefront of consideration of safety.*

## **Definition of Terms**

### **Noxious or dangerous -**

*Replace the following:*

(a) Human health effects from acute exposure or chronic exposure. These include allergic reactions, toxic poisoning or exposure to carcinogens.

*With:*

(a) Human health effects from acute exposure or chronic exposure. These include allergic reactions; toxic poisoning; and long term adverse effects from exposure to reproductive or developmental toxins; carcinogens and endocrine disruptors.

END

