



**BAY OF PLENTY  
REGIONAL COUNCIL  
TOI MOANA**

## Submission Form

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

Submission Number  
*Office use only*

075

<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:** (J Swap Ltd) SWAP STOCKFOODS LTD

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

I **could not** gain an advantage in trade competition through this submission.

The details of my submission are in the attached table.

I wish to be heard in support of my submission.

[Signature of person making submission of person authorised to sign on behalf of person making submission.]  
 [NOTE: A signature is not required if you make your submission by electronic means.]

18 April 2018

Date

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Richard Harkness - Associate Director



## INTRODUCTION AND BACKGROUND

This is a submission made by Swap Stockfoods Ltd (“SSL”) to Proposed Plan Change 13 (“PPC13”) pursuant to clause 6 of the First Schedule of the Resource Management Act 1991 (RMA).

The Swap Group of companies has had a long association in contracting, quarrying, heavy haulage, bulk storage and stockfeed supplies. The SSL business imports a range of stockfeed products (“stockfeed”) through the Port of Tauranga. Stockfeed is offloaded at the port and then transported to indoor bulk storage facilities throughout the Bay of Plenty region. Stockfeed is then distributed to customers by road transport from the indoor bulk stores.

Some dust emissions are generated by bulk stockfeed storage and handling. SSL responsibly manages those emissions at its bulk stores to ensure that there are no noxious, dangerous, offensive or objectionable discharges beyond the boundaries of the bulk store sites. SSL is concerned to ensure that its stockfeed bulk storage activities are not required to obtain air discharge permits simply due to the nature of the underlying activity, which is based on an activity name classification of ‘industrial or trade premises’.

In a wider sense, SSL is concerned that there is a lack of guidance provided in PPC13 as to how the terms “offensive or objectionable” will be interpreted by Council and how Council will determine whether or not an activity is complying with the criteria in relevant rules where those terms are used.

In light of the above, the specific parts of Proposed Plan Change 13 that the SSL submission relates to are outlined in the following table.

### SUBMISSION POINTS

Page No.	Reference	Support/Oppose	Decision Sought (additions underlined)	Reasons
4	Rule AQ R1 – General activities - Permitted	Oppose	Amend Rule AQ R1 condition (c) to read as follows:  (c) The discharge is not from industrial or trade premises, <u>unless the discharge achieves the requirements of conditions (a) and (b) above.</u>	For the purposes of PPC13, SSL bulk stores are classified as an industrial and trade premise (as defined by the RMA), and given the definition of contaminant in PPC13 any dust generated from stockfeed storage and handling is categorised as a contaminant. As result, SSL stockfeed bulk store activities are captured by the rules of PPC13.
			or other relief to the same effect	The ‘as notified’ wording of Rule AQ R1 sets out three pre-requisites for a discharge of contaminants to air to retain Permitted Activity status. These are:

Page No.	Reference	Support/Oppose	Decision Sought (additions <u>underlined</u> )	Reasons
				<p>(a) <i>The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property or into any water body.</i></p> <p>(b) <i>The discharge of smoke or water vapour must not adversely affect the safety of any vehicle, aircraft, or ship.</i></p> <p>(c) <i>The discharge is not from industrial or trade premises.</i></p> <p>The effect of this wording is that regardless of whether an industrial or trade premise manages its air discharges to achieve the important pre-requisites of (a) and (b), those discharges will not be permitted (ie will require Discretionary Activity consent under Rule AQ R2) simply due to the fact that they are emitted from an industrial or trade premise.</p> <p>This does not reflect an effects based methodology, and will result in the Permitted Activity Rule becoming inefficient and ineffective due to the large number of industrial and trade premises that will likely be captured unnecessarily.</p> <p>The amendment sought will allow air discharges from industrial and trade premises to retain permitted status provided that the pre-requisite standards in (a) and (b) of the permitted activity rule are achieved.</p> <p>Amending the rule as sought will be compliant with section 15(1)(c) of the RMA, as in tandem with Discretionary Activity Rule AQ R2) the rule will expressly allow for the discharge of a controlled and managed amount of contaminants to air from an industrial or trade premise.</p>

Page No.	Reference	Support/Oppose	Decision Sought (additions underlined)	Reasons
1-4, 17-21	Objectives and Policies, Definitions	Oppose in Part	<p>Insert an additional Policy or Policies, or an Advice Note, or amend the Definitions to include the information provided by Section 5.6.5 (Interpretation of the terms Offensive and Objectionable) of the Operative Bay of Plenty Regional Air Plan, or other relief to the same effect.</p>	<p>The 'as notified' rule framework in PPC13 relies on the terms "noxious or dangerous" and "offensive or objectionable" when setting parameters for consent activity classifications. Without guidance being provided in the Plan, these relatively subjective terms are open to interpretation which creates uncertainty for both Council as regulator and those carrying out activities that generate discharges to air.</p> <p>PPC13 provides a definition of "noxious or dangerous", which assists for that aspect. However, there is no guidance in PPC 13 as notified as to how the terms "offensive or objectionable" will be interpreted by Council and how Council will determine whether or not an activity is complying with the criteria in relevant rules where it is used (eg Rule AQ R1).</p> <p>The information provided in Section 5.6.5 of the Operative Bay of Plenty Regional Air Plan provides valuable guidance to users of that plan on exactly this issue. SSL submits that it would be appropriate to avoid uncertainty in PPC13, and for the information in Section 5.6.5 of the Operative Bay of Plenty Regional Air Plan to be imported into PPC13, either by way of new or amended policy provisions, advice notes, or amendments to/new definitions.</p>

