



TOI MOANA
BAY OF PLENTY
REGIONAL COUNCIL

Submission Form

Send your submission to reach us by
4:00 pm on Thursday, 12 April 2018

Submission Number
Office use only

007


Post: The Chief Executive
Bay of Plenty Regional Council
PO Box 364
Whakatāne 3158

or fax: 0800 884 882
or email: air@boprc.govt.nz

Submitter name: Western Bay of Plenty District Council

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

- 1 I could not gain an advantage in trade completion through this submission.
- 2 The details of my submission are in the attached table.
- 3 I wish to be heard in support of my submission.
- 4 If others make a similar submission, I will consider presenting a joint case with them at a hearing.


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

05 April 2018
Date

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Matthew Leighton, Senior Policy Analyst

Submission Points:

Page no.	Reference	Support/Oppose	Decision Sought	Reasons
	Overall Plan Change	Support in part	That the plan be retained as notified except where changes are sought in our submission points below.	The overall intent of the proposed plan change and the objectives it seeks to achieve are supported.
1	AQ O3	Oppose	Objective AQ O3 should refer to "Protect" as in AQ O1 or be merged with AQ O1 so that all are protected together.	This is currently worded as a policy rather than an objective. "Managing" discharges of contaminants is an action and does not specify a desired outcome.
1	AQ P1	Support	Retain	The policy is practical and pragmatic.
2	AQ P3	Support in part	Replace the acronyms NESAQ and AAQG with the full terms or refer to them in the definitions section. That a consistent approach be applied throughout.	Readers may not know what NESAQ and AAQGs are, it may enable easier use of the plan to provide the terms in full. These acronyms appear at various points in the document and a consistent approach is necessary.
2	AQ P4	Support in part	Replace the introductory sentence with: "When considering the acceptability of any discharge of contaminants to air, particular regard should be given to the following matters".	The use of the term 'user' is ambiguous and it is recommended that it be removed.
2	AQ P4 (a) and (g)	Support in part	Remove "established" from AQ P4 (g)	Clause (g) refers to "established" sensitive activities; however, clause (a) does not. For consistency and clarity, removing the term 'established' is sought, unless there was a specific reason for its inclusion, and therefore the rationale is sought.

2	AQ P5	Support in part	<p>Amend to:</p> <p>"Avoid the discharge of contaminants to air from open burning where the fire is located less than 100m from the nearest neighbouring dwelling house, while permitting open burning."</p> <p>Add a new (a):</p> <p>"Where the fire is located 100m or more from the nearest neighbouring dwelling house"</p> <p>Delete the words "and/or outside urban areas".</p>	<p>This policy is confusing. It is about open burning on urban properties yet refers to open burning outside urban areas under the exemptions.</p> <p>Also, as discussed in another submission point below, the definition for urban property is requested to be deleted. A more effects based approach may achieve a better outcome, limiting open burning within a certain proximity of residential dwellings would achieve a similar result and would better limit the potential impacts on human health.</p>
6	AQ R6	Support in part	<p>Amend to:</p> <p>"open burning is a permitted activity provided the fire is located 100m or more from the nearest neighbouring dwelling house".</p> <p>Remove the bolding of the text 'offensive or objectionable' in AQ R6(c).</p>	<p>The intent of the rule is supported.</p> <p>However, as discussed in another submission point below, the definition for urban property is requested to be deleted. A more effects based approach may achieve a better outcome, limiting open burning within a certain proximity of residential dwellings would achieve a similar result and would better limit the potential impacts on human health.</p> <p>A minor correction in formatting is necessary for AQ R6(c), as the term 'offensive or objectionable' is not defined in the document and therefore should not be in bold.</p>

7	AQ R9	Support in part	<p>Amend to:</p> <p>Open burning where the fire is less than 100m from the nearest neighbouring dwelling house – Non-complying — Te tahutahu noa i ngā wāhi tāone – Tautuku-kore</p> <p>Except where AQ R7 and AQ R8 apply, the discharge of contaminants to air from open burning where the fire is located less than 100m from the nearest neighbouring dwelling house is a non-complying activity, unless the fire is for recreational/cultural purposes only.</p>	<p>The intent of the rule is supported.</p> <p>However, as discussed in another submission point below, the definition for urban property is requested to be deleted. A more effects based approach may achieve a better outcome, limiting open burning within a certain proximity of residential dwellings would achieve a similar result and would better limit the potential impacts on human health.</p>
7	AQ R10	Support in part	<p>Minor correction - AQ R21(i) rather than AQ 21(f).</p> <p>In the advice note, remove reference to users by replacing the sentence with:</p> <p>“The regulations of the NESAQ should be checked, as well as the provisions of this regional plan.”</p>	<p>The list of specified materials is supported, as is the reference to the NESAQ regulations</p> <p>The use of the term ‘user’ is ambiguous and is recommended that it be removed.</p>
9	AQ R15 (2)	Support in part	<p>Minor correction -</p> <p>(a) Remove comma between hand-held and non-motorised</p> <p>(b) Remove comma between hand-held and motorised</p>	<p>The minor amendment is necessary to align with the definitions provided and to aid in clarity.</p>

9	AQ R.15 (3)(a)	Support in part	After the words "signs must be displayed at every entrance where the public usually have entry to the area" insert the words "(except where the entrance is from private property)".	<p>The proposed conditions align with the Council's practice in most public amenity areas. However, the definition given for public amenity areas would mean that signage is required 'at every entrance where the public usually have entry' and it is not clear whether people entering from their private property would be deemed to be the 'public'.</p> <p>This is of particular concern for cycleways and walkways, as these are often part of the roading network, with multiple access points directly onto the network from private properties. The change sought seeks to remove any possible requirements to display signs at the entrance of private properties.</p> <p>The suggested changes may better align this with the exceptions provided in through AQ R15(4)(d).</p>
9	AQ R.15 (3)(c)	Oppose	Remove AQ R15 (3)(c)	<p>This condition is considered unnecessary and unexpectedly broad. It would capture anyone spraying in their garden that lives adjacent to a park, or walkway, despite the application method being of low risk. It is felt that the negative impacts from spraying are sufficiently captured by AQ R(1)(a).</p>
9	AQ R.15 (4)(a)	Support	Retain	<p>The conditions are supported. The inclusion of notification agreements are supported as enabling a practical approach.</p>

9	AQ R15 (4)(d)	Support in part	<p>Amend to (underlined words are insertions):</p> <p>"... except where agricultural are sprayed on the land under management by the Regional Council or <u>Territorial Authority</u> for maintenance of rivers and drainage schemes, land used for road or rail purposes, or land designated as an esplanade strip or esplanade reserve or other reserve."</p>	<p>Limiting the exception to land designated as an esplanade strip or esplanade reserve does not adequately cover off the potential increase in administration for TAs. Given the number of neighbours surrounding some of our other reserves, in particular urban parks, this would be administratively inefficient, with little added benefit.</p> <p>This is especially the case given the additional notification requirements necessary under AQ R15(4)(e). Similarly the maintenance of stormwater drainage schemes may require spraying and is not dissimilar to the maintenance of river or drainage schemes undertaken by the Regional Council, again where there may be numerous neighbouring properties.</p>
9	AQ R15 (4)(e)	Support in part	<p>Amend to (underlined words are insertions):</p> <p>"...must publicly notify the agricultural spraying using an appropriate method from at least 24 hours prior, up to <u>four weeks</u> prior to the agricultural use, <u>except where spraying is to occur on land used for road purposes where three months prior is allowed.</u> Notification must..."</p>	<p>Under Section 2AB of the RMA, public notification requires information on an internet site and a summary published in one or more newspapers. Given the timeframes for getting an advert in print media and the circulation dates, limiting this to one week prior is not realistic.</p> <p>Similarly, when this is considered alongside the necessity for good weather conditions, conducive to spraying, a week window again is not realistic. The Council currently publicly notifies spraying of its reserves up to four weeks prior to provide a four week period in which the spraying can be undertaken.</p>

				<p>For our roading network, a longer timeframe is taken, where we notify that the whole network will be sprayed in a three month window.</p> <p>The suggested edits recognise the current approaches and provide for a more efficient and realistic application of the rule.</p>
18	Definition of terms – Free range farming	Oppose	Amend the definition of free range farming to exclude the keeping of poultry and pigs that are not for farming purposes.	<p>As the definition of 'free-range farming' currently sits in the proposed plan, AQ R21(j) would require a resource consent for the keeping of one or more pigs or one or more poultry animals on a farm (e.g. as pets) rather than only requiring resource consent for the keeping of pigs or poultry animals being used for farming purposes.</p>

18	Definition of terms – Intensive farming	Oppose	<p>Amend to the following (or to similar wording to fit the purposes of the Regional Air Plan):</p> <p>“Intensive farming means agricultural production activities which have no dependency on the quality of the soils occurring naturally on the site and which are either:</p> <p>(a) carried out within the confines of buildings/structures or pens or yards enclosed by fences or walls; or</p> <p>(b) undertaken in a manner which precludes the continuous maintenance of pasture or other groundcover.</p> <p>Included in this definition are:</p> <ul style="list-style-type: none"> • Mushroom farming; • Intensive livestock farming; • Poultry farming involving the keeping of more than 25 birds (whether outdoors or indoors); • Piggeries; • Aquaculture • Rabbit farming; • Mustelid farming; 	<p>The current definition is confusing. Limiting or preventing “dependence on natural quality of the soil” indicates that something is intensive farming, whereas limiting dependence on “food required to be brought to the site” indicates that something is <u>not</u> intensive farming i.e. these things are opposites.</p> <p>Therefore, it doesn’t make sense to say that limiting or preventing one or both leads to something being an intensive farming activity. Also, the reference to “limits” is un-measurable and will lead to disputes.</p> <p>It is recommended that the definition of intensive farming is re-considered in light of these problems. Western Bay of Plenty District Council already has a definition of intensive farming. It is suggested that the Regional Council uses this as a starting point to better define intensive farming for the purposes of the Regional Air Plan.</p>
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			<p>Excluded from this definition are:</p> <ul style="list-style-type: none"> • The growing of plants or other vegetative matter in greenhouses or other covered buildings/structures; • Temporary uses or practices which are ancillary to a principal farming activity, such as the wintering of stock in buildings/structures and calf-rearing; • The keeping of not more than 25 poultry birds; • Extensive pig farming (the keeping of pigs outdoors at a stock density which ensures groundcover is maintained in accordance with best farming practices, including any relevant industry codes of practice, and where no fixed buildings/structures are used for the continuous housing of animals). • The keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary within buildings/structures or outdoors without groundcover being continuously maintained.
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20	Definition of terms - Sensitive activity	Support in part	Insert "(but is not limited to)" after the word "includes".	<p>This lists very specific activities (e.g. offices and consulting rooms instead of referring to commercial activities) so may unintentionally exclude others that were meant to be included. For example, it excludes cafes, restaurants and retail activities, which may also be sensitive activities.</p>
21	Definition of terms - Urban property	Oppose	Delete the definition of urban property.	<p>The reliance on defining urban properties as being connected to a municipal wastewater system is inappropriate. As the definition stands it undermines AQ R9, by the fact that any vacant section or other non-connected property (e.g. businesses with their own wastewater system, or residential properties in smaller communities without a wastewater scheme available) could engage in open burning as a permitted activity.</p> <p>Even if the term urban property could be better defined, there are still going to be effects. For example, if the discharging property was in a rural zone, but it adjoined a residential zone, burning would be permitted even though there are likely to be effects on the adjoining residential zone. Or, if the subject property was in a residential zone, but was still rural in nature (i.e. recently re-zoned), resource consent would be required for burning even if there are no other dwellings nearby.</p>

21	Definition of terms – Subject property	New term proposed	Inclusion of a new definition: "Subject property means the property from which the discharge is originating."	Clarity is required as to what is meant by 'subject property' throughout the plan. The subject property could be interpreted as the property subjected to the effects of the discharge rather than that where it originates. The definition suggested aims to address this.
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