BAY OF PLENTY REGIONAL COUNCIL TOI MOANA

Submission Form

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Submission Number
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058

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:

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. [*Delete as required.*]

(a) I **am** 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.

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The details of my submission are in the attached table.

3 I 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.*]

Lucy Deverall _____ 18/4/2018
[*Signature of person making submission or person authorised to sign on behalf of person making submission.*] *Date*
*[NOTE: A signature is **not** required if you make your submission by electronic means.*]

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SUBMISSION ON PROPOSED PLAN CHANGE 13 AIR QUALITY AND CONSEQUENTIAL CHANGES TO THE REGIONAL NATURAL RESOURCES Plan for the BAY OF PLENTY

TO:	Bay of Plenty Regional Council
SUBMISSION ON:	Proposed Plan Change 13 Air Quality and Consequential changes to the Regional Natural Resources Plan
NAME:	Horticulture New Zealand
ADDRESS:	PO Box 10 232 WELLINGTON

1. **Horticulture New Zealand's submissions, and the decisions sought, are detailed in the attached schedules:**

   Schedule 1 General submissions
   Schedule 2 Specific changes sought
   Schedule 3 Changes sought to AQ R15

2. **Horticulture New Zealand wishes to be heard in support of this submission.**

3. **Background to Horticulture New Zealand and its RMA involvement:**

3.1 Horticulture New Zealand was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers' and New Zealand Fruitgrowers' and New Zealand Berryfruit Growers Federations.

3.2 On behalf of its 5,500 active grower members Horticulture New Zealand takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that Horticulture New Zealand considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act,
- Non-regulatory methods should be employed by councils;
- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;
- Ensuring that RMA plans work in the growers interests both in an environmental and "right to farm" sense;

Thank you for the opportunity to submit on Proposed Plan Change 13 Air Quality and Consequential Changes to the Regional Natural Resources Plan for the Bay of Plenty Region.

Lucy Deverall
Environmental Policy Advisor, Natural Resources and Environment

Date: 18 April 2018

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Schedule 1: General Submissions

1. Regional Policy Statement

Relevant provisions in the Regional Policy Statement relating to Air Quality and discharges to air, particularly agrichemical use, are:

Objective 1: The adverse effects of odours, chemical emissions and particulates are avoided, remedied or mitigated so as to protect people and the environment.

Policy AQ 1A: Discouraging reverse sensitivity associated with odours, chemicals and particulates (Pg 113). The policy seeks to ensure that sensitive activities are appropriately located.

Policy AQ 2: Managing adverse effects from the discharge of odours, chemicals and particulates (Pg 113). This policy has a focus on managing the discharge of offensive and objectionable odour, chemicals and particulates on amenity values and protecting people's health and managing effects.

Method 2: Regional Plan implementation
Method 6: Agrichemical users to apply best practice
Method 54 Research and monito agrichemical spraydrift effects on human health

Decision sought:
HortNZ seeks that these provisions in the RPS are given effect to in the Regional Air Plan.

2. Relationship to Regional Natural Resources Plan

Plan Change 13 is a plan change to the Regional Natural Resource Plan (RNRP), which is the former Land and Water Plan that has been rebranded to be the basis for an integrated Regional Natural Resources Plan.

While the approach has merit there are potentially perverse outcomes through the process of adding chapters to a plan but not considering the overall plan in its entirety.

An example is the definition of fertiliser. The RNRP has a definition and provisions relating to fertiliser which are predicated on managing the effects on land and water. However the term is also relevant to managing effects on air quality where a different range of effects are being managed. The Operative Air Plan has an appropriate definition for fertiliser but it is not carried over in PC13 and the definition in the RNRP will prevail. The effect of this is that the definition of fertiliser will not include all substances that are part of fertiliser, and therefore not provided for in PC13.

To achieve an integrated planning document there needs to be a review of all parts of the base document when adding Plan Changes to ensure consistency and that perverse outcomes are avoided.

Decision sought:
Ensure that there is consistency between the Regional Natural Resource Plan and Plan Change 13.

3. Background receiving environment

In managing discharges to air it is important to recognise that the receiving environment will vary across the region. For instance, the receiving environment in an urban area is different to that of the rural area or and industrial area. Therefore the level of adverse effects from discharges to air will vary depending on the location within the region and the nature of the background receiving environment.

It is important that there is recognition of this in the Plan as it influences how complaints and resource consents may be assessed, including the assessment as to whether an activity has caused offensive and objectionable adverse effects.

Decisions sought:
Amend AQO3: Localised air quality
Manage discharge of contaminants to air according to their adverse effects on human health, cultural values, amenity values and the environment, recognising that the background receiving environment varies across the region.

Add an additional clause in AQ P4: The nature of the background receiving environment.

4. Offensive and objectionable

The term offensive and objectionable are used extensively throughout PC13 but there is no definition for 'offensive or objectionable' or guidance as to how it may be applied. The s32 Report Appendix 2 includes a description of 'offensive or objectionable' and states that there is no definition provided in the Plan Change as case law establishes how it may be applied and that case law is evolving. It also states that no regional plan includes a definition for offensive and objectionable. While definitions may not be included in other regional plans there are a number of plans (e.g. ECAN, HBRC) that include a descriptor, policy or Schedule that provides guidance as to how the terms may be applied and assessed in the context of the Plan.

The s32 Report also considers that an assessment of offensive and objectionable is a subjective test. However case law has determined that it is an objective test based on the 'reasonable person.'

HortNZ considers that the Plan Change should include guidance for users as to how offensive or objectionable will be assessed and seeks that either a policy, or Schedule is included in the Plan and a definition that links to the policy or Schedule.

The wording sought is based on the s32 Report and the descriptions in other regional plans and identifies a number of key considerations and uses the FIDOL factors as a basis of the assessment.

It is considered that this approach will assist in implementing the Plan Change and provide clarity for users.

Decision sought:
Add a definition for offensive and objectionable effects as follows:
Offensive and objectionable effects are effects that cause significant

displeasure and need to be assessed in the context of the discharge, in particular the nature, frequency, duration, intensity and location of the discharge to determine the extent to which the adverse effects may be considered offensive or objectionable. Offensive and objectionable effects will be assessed as set out in Schedule AQ xxx or Policy AQ xxx

Include the following as either a policy or a Schedule in the Plan:

Schedule or policy for 'Offensive or objectionable'

The terms noxious or dangerous, offensive or objectionable are used in the Plan, usually as a bottom line condition in respect to discharges to air where the condition states:
" the discharge does not cause **noxious or dangerous**, offensive or objectionable adverse effects beyond the boundary of the subject property," or similar wording.

This condition seeks to ensure that in the absence of any other condition, the discharge is managed to reduce adverse effects on health and wellbeing (including amenity values and cultural values).

These terms are used in the RMA but are not defined. The Plan Change defines "noxious or dangerous", as a discharge that causes an adverse effect on the environment. This is broad brush, but the definition then lists examples which include human health effects, contaminant of water, damage to paintwork etc. These are all adverse effects which are measurable, either through testing, monitoring or visual inspection.

The definition of 'offensive and objectionable' relies on the description in this Schedule (or policy).

'Offensive' is generally described as "giving or meant to give offence disgusting, foul-smelling, nauseous, repulsive." 'Objectionable' is generally described as "open to objection, unpleasant, offensive."

Case law has established that what may be offensive or objectionable under the RMA cannot be defined or prescribed except in the most general of terms. Each case will depend upon its own circumstances and will include the following key considerations:

(i) **Location of an activity and sensitivity of the receiving environment –** For example, what may be considered offensive or objectionable in an urban area, may not necessarily be considered offensive or objectionable in a rural area.

(ii) **Reasonableness -** Whether or not an activity is offensive or objectionable should be determined by an ordinary person who is representative of the community at large and neither hypersensitive nor insensitive, in deciding whether the activity is disgusting, nauseous, repulsive or otherwise objectionable.

(iii) **Existing uses -** It is important to consider what lawfully established activities exist in an area, i.e. if a new activity requires a consent, the effect of existing discharges of contaminants into air should be considered.

The FIDOL factors provide some objectivity to an assessment. When determining whether or not a discharge to air has caused an objectionable or offensive adverse effect regard will be given to the following matters:

1. The frequency of events - how often an individual is exposed to the discharge;
2. The intensity of events - as indicated by quantity and strength of discharge produced and the degree of effect;
3. The duration of each event– the length of exposure;
4. The offensiveness of the discharge, having regard to the character and nature of the discharge and background receiving environment;
5. The location of the discharge – the type of land use and nature of human activities in the vicinity of a source, having regard to the sensitivity of the background receiving environment, including taking into account the relevant zone(s) and provisions in the relevant District Plan.

There is extensive literature on the FIDOL factors and the Ministry for the Environment has published two Good Practice Guides (for Assessing and Managing Odour, and for Assessing and Managing Dust) that set out the analysis process.

5. Reverse sensitivity

Reverse sensitivity is a key issue for horticultural growers in the region who supported the incorporation of provisions into the RPS to recognise it as an issue in the region.

HortNZ is concerned that there are not adequate provisions to address the issue, and seek that a policy framework for reverse sensitivity is included in the Plan.

Decision sought:
That a policy framework be added to PC13 to provide for consideration of reverse sensitivity effects, as set out in specific submissions in Schedule 2.

6. Ambient Air Quality Guidelines (AAQG)

The Plan relies on the National Environmental Standard for Air Quality (2004) (NESAQ) and Ambient Air Quality Guidelines (2002) (AAQG) as standards for ambient air quality. They are the basis of Objective AQ02 and included in Policy AQP3.

There is a distinct difference between the respective documents. The NESAQ is a National Environmental Standard that must be given effect to through the Regional Plan. It sets standards that the Council must achieve, particularly relating to PM^{10}.

However the AAQG are not an NES so the Plan is not required to give effect to them and the Guidelines have not been developed through a robust RMA process. The AAQG relate to ambient air quality but are applied to all air quality in PC13, not just ambient air quality. The effect of this is that they are applied inappropriately and effectively become a de facto standard for localised air quality and discharges, which they were not designed to be.

While the AAQG establishes guideline values for human health and ecosystems the document notes that they are not legislative requirements. The

AAQG states that they should be used to direct air shed management and evaluate ambient air quality monitoring results and that economic benefits and cost associated with achieving the values have not been taken into account.

The AAQG also acknowledge that there are limitations as to how they should be applied, in particular they are not designed to be used to assess the environmental and health impacts of individual discharges to air and lists a number of specific limitations, including that they should not be applied without taking into account the sensitivity of the receiving environment or considering the background concentrations and potential cumulative effects. The guidelines explicitly state that caution should be used with the eco-system based guidelines as they are based on northern hemisphere research.

Given this caution and the limitations on their use the AAQG should not be used as a threshold in the objective and policies of the Plan. It is appropriate to recognise the health based values as a benchmark but not as a threshold to be achieved.

The Section 32 Report considers the AAQG's on Page 231. It acknowledges that the guidelines do not have force of law like the NESAQ yet proceeds to give the guidelines the same status as the NESAQ in requiring compliance with the guidelines.

Decision sought:
Amend references to AAQG as set out in Schedule 2 of this submission.

7. Agrichemical spraying

HortNZ seeks to ensure that the provisions in PC13 for agrichemical spraying ensure safe, responsible and effective use of agrichemicals.

While the focus on managing spray drift with a risk management approach is generally supported there is an absence of requiring best management practices to be used and ensuring adequate competency of users of agrichemicals. Both matters are essential if off target spray drift and adverse effects are to be minimised.

In considering the approach for use of agrichemicals in a Regional Plan the following principles underpin the provisions sought by HortNZ.

- All agrichemical users should use best practice at all times
- NZS8409 is best practice and should be used as the basis in the plan – but only those parts relevant to regional council responsibilities.
- A clear definition of agrichemical based on NZS8409:2004 so it is clear what substances are included in the provisions
- Users should be able to apply agrichemicals as a Permitted Activity in a safe, responsible and effective manner
- There are multiple variables that need to be considered for any agrichemical applications so a one size fits all approach is not necessarily the most appropriate
- A risk based approach should be taken to manage use of agrichemicals – identifying risks and taking appropriate actions to manage the risks
- Controls should be related to addressing potential adverse effects and risk factors
- Controls should comprise a cost effective tool box

- The critical threshold should be avoiding significant adverse effects of off target drift beyond the property boundary. 'Significant adverse effects' should be clearly defined.
- Competency of users is critical
- Onus of responsibility for respective tasks in the use of agrichemicals needs to be clear
- There needs to be clear verification of task
- Those likely to be directly affected by the application have a right to know that it is to occur
- HSNO and the HSNO classifications should be used where they align and inform the provisions

The RPS clearly identifies that best practice is the approach to managing agrichemical use. This is supported. The role of the provisions in the Air Plan should be to quantify best practice and how it is applied in the Region. Best practice for agrichemical use is set out in NZS8409:2004 Management of Agrichemicals and should be the basis for provisions in the Plan. The inclusion of spray plans is an example of applying best practice and is supported.

The focus of the proposed provisions is on notification, but other aspects of best practice also need to be included with requirements for appropriate training to ensure that best practice is used.

The s32 Report appears to have misinterpreted the status of NZS8409:2004 Management of Agrichemicals. It states (Pg 103) that:
"The NZ Standard Management of Agrichemicals 8409:2004 (the Agrichemical Standard) is a Code of Practice prepared under s78 and 79 of the HSNO Act."

This is incorrect. NZS8409:2004 was prepared by Standards NZ using a collaborative approach to ensure safe, responsible and effective use of agrichemicals. It was designed to assist in achieving outcomes for HSNO, RMA and other relevant legislation such as the Transport Act and ACVM Act.

Once the Standard was finalised it was submitted to EPA for approval as a Code of Practice under HSNO. Such approval meant that NZS8409:2004 was recognised as a means of compliance with the specific HSNO Regulations. It was not a requirement of HSNO, but a means to demonstrate that HSNO is met.

The s32 Report on P110 (1st paragraph) is also inaccurate where it states:
The Agrichemical Standard's primary purpose is for agrichemical use to meet the requirements of the HSNO Act with the bulk of the document covering matters such as personal protection equipment, storage, transport and disposal. There are some sections of the HSNO Act that provide guidance on reducing spray drift such as s5 (requirements for notification and consideration of sensitive areas and Appendix G (Spraydrift and weather conditions.)

The sections quoted are not sections of HSNO – they are sections of the Standard.

The Standard covers a wide range of matters relating to agrichemical use, not all of which are relevant to the functions on a Regional Council in respect of discharges to air. That is why most regional councils refer to specific sections of the Standard that are relevant to their functions, especially in terms of managing off target spray drift. In fact, it would be inappropriate for the Council to require compliance with the whole Standard.

The practices set out in NZS8409:2004 are best practices in terms of using agrichemicals. Best practice is the means to ensure that there are no adverse effects from the activity. Therefore HortNZ seeks that compliance with specific relevant sections of the Standard are included as a condition of the permitted activity rule.

The other area of particular concern is the lack of competency requirements in the Plan. If agrichemical users are going to be competent in using best practice and developing spray risk management plans they need to be appropriately trained to be able to have the knowledge and skills to achieve this.

The s32 Report (Pg 118) states that a requirement for training is removed because certification does not directly relate to managing discharges of spraydrift.

HortNZ considers this statement to be inaccurate because there is a very clear correlation between training and competency of users and application of best practice. This is recognised in a number of OECD reports in which New Zealand was involved including the following:[1]

Education and training
16. Education and training were seen as key factors that could lead to drift and risk reduction. Many participants indicated that it was important to guide and train farmers on newer and safer technologies. Extension services, advisors, industry stewardship programmes could all contribute to make farmers more aware of available techniques and best practices for limiting spray drift.

The OECD Strategic Approach in Pesticide Risk Reduction (OECD Environment, Health and Safety Publications Series on Pesticides No. 48 2009)[2] identified a strategic approach that includes four core elements identified as contributing to the reduction of risks arising from the use of pesticides, in particular to human and animal health and to the environment are:

- *high standards* in legally based registration and placing on the market of active substances and products;
- a package of *mandatory and voluntary provisions* and requirements for proper use of pesticides;
- *promotion of alternative methods* such as non-chemical plant protection measures, wherever possible; and
- *control and monitoring* through implementation of risk indicators to describe progress of risk reduction programmes.

The report then identified a number of measures to produce a significant reduction of risks arising from the use of pesticides, and includes user competency:
Training and certification schemes for users, advisors and distributors

- *only well-educated and informed users in the whole field of plant protection are able to handle and use pesticides as sustainably as possible;*

[1] http://www.oecd.org/env/ehs/pesticides-biocides/44033714.pdf
[2] http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono(2009)38&doclanguage=en

- *implementation of mandatory/voluntary training programmes for safe handling and sustainable use of pesticides, remnants, waste and application equipment as well as pertinent knowledge on IPM;*
- *easily accessible information and transfer of appropriate updated knowledge; and*
- *safeguarding of secure compliance with national regulations.*

While Council may not have been actively monitoring and enforcing the certification requirements in the Operative Plan, if there is a complaint or spray drift incident the level of competency of the applicator is an important consideration. A competency requirement in the Plan establishes the benchmark.

It is noted that the EPA Hazardous Substance Control Notices includes GROWSAFE training as an appropriate qualification for application of specific Class 9 substances and the new Worksafe and EPA regulatory tools have an increased focus on training and competency.

Courses such as GROWSAFE include a section on the Regional Plan requirements to ensure that trainees are aware of the Plan requirements. It also teaches how to develop a spray plan. So requiring training in the Plan is a key part of the toolbox of methods to ensure the objectives of the Plan are met.

Therefore HortNZ seeks that training is included as a conditions in AQR15.

Notification has been an issue of concern to the Council and affected parties. The s32 Report correctly states that provision information is important. HortNZ is aware that there are a range of perspectives regarding what is 'appropriate' notification and that it presents a challenge in balancing the need for neighbours to have accurate and timely advance notice of spraying, with spray applicators needing to work around contracting and weather conditions.

The proposed notification requirements in the Plan have a minimum of 24 hours and maximum of 3 days notification.

The problem for growers is that spraying is very weather dependent and it may be the night before that a decision is made to spray. In addition, notification usually occurs during the evening as that is when most people are home and able to be contacted. HortNZ considers that there is greater certainty for all parties if the notification is done closer to the time of the application, rather than in a wider window of time.

It may be that agreement can be made with a neighbour to have different notification requirements but this lacks certainty for growers to be able to carry out their business.

There should also be a responsibility on the part of parties who consider themselves to be affected to also be proactive to discuss with growers their specific issues and concerns. Provision of the spray management plan will assist in this regard. Awareness of specific concerns is the first step in finding an appropriate solution. For instance: if there are problems with moving dairy cows at certain times of the year the dairy farmer should be having a discussion with the nearby farmers and growers to discuss the issue, rather than wait till notification of a spray application is given.

Given the unworkability of the 24 hour minimum HortNZ seeks that this is amended to 12 hours.

There is also concern about the signage requirements. The Proposed Plan Change only has signage requirements for public amenity areas. The Draft Plan also had signage requirements for private land so people entering the property area are aware that agrichemical spraying is being undertaken.

HortNZ seeks that signage requirements for private land are included in the Plan to ensure that people going onto a property while spraying is taking place are aware of that. Such signage is required in the Health and Safety regulations.

Signage on vehicles as proposed in AQ R15 3) e) should only be required on vehicles in public places, not on private property. A change is sought to this effect.

The other concern of HortNZ is that the default rule if the permitted activity conditions are not met is a discretionary rule. It is considered that appropriate matters of discretion can be included so the activity is assessed as a restricted discretionary activity. This approach provides greater clarity for users and ensures that costs are limited to the relevant matters to be considered in a consent application.

Decision sought:
Amend Policy AQ P8 as set out in Schedule 2 of this submission.

Amend AQ R 15 as set out in Schedule 3 of this submission.

8. Fertiliser

In comments on the Draft Plan HortNZ sought that the definition for fertiliser be the same as the ACVM definition so that there is consistency across the country and with regulators as to what constitutes a fertiliser.

The definition of fertiliser in the Operative Air Plan is based on the ACVM Regulations but the definition in the Regional Natural Resources Plan is based on the 1998 Code of Practice for Fertiliser Use, which has been superseded, and refers only to the application of essential nutrients.

However fertiliser includes a number of components that are not specifically essential nutrients so a definition needs to be wider than just essential nutrients. For instance, lime is a soil conditioner and not an essential nutrient.

Fertilisers are managed through ACVM and HSNO. Each has a definition of fertiliser that includes a wider range of substances than essential nutrients and includes fertiliser additives.

The non-nutrient components of fertiliser are recognised in the ACVM definition which defines fertiliser as:

a) means a substance or biological compound or mix of substances or biological compounds that is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of—

(i) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or
(ii) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or
(iii) fertiliser additives; and

(b) includes non-nutrient attributes of the materials used in fertiliser; but

(c) does not include substances that are plant growth regulators that modify the physiological functions of plants.

A fertiliser additive is a non-nutrient substance added to a fertiliser, or applied by itself to land or plants, that:

- improves the supply and uptake of nutrients or
- increases biological activity or
- modifies the physical characteristics of a fertiliser to make it more fit for its purpose.

The definition in the Regional Natural Resources Plan includes "Any other product which is considered to meet identified soil or plan nutrient deficiencies and is applied with this as the principle objective."

While this is wider than 'essential nutrients' it does not necessarily provide for fertiliser additives as described above. It is considered that the ACVM definition is clearer and more certain as to what a fertiliser actually is. Therefore HortNZ supports the use of the ACVM definition in the Plan.

Decision sought:

HortNZ seeks that the definition for fertiliser in the RNRP is the ACVM definition as follows:
Fertiliser
a) means a substance or biological compound or mix of substances or biological compounds that is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of—
(i) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or
(ii) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or
(iii) fertiliser additives; and
(b) includes non-nutrient attributes of the materials used in fertiliser; but
(c) does not include substances that are plant growth regulators that modify the physiological functions of plants.
This definition is from the ACVM Regulations.

Alternatively:
If the operative definition in the Regional Natural Resource Plan is sought to be retained include the ACVM definition specific to the Air Quality provisions.

Fertiliser for the purposes of Ch X Air Quality means: Insert ACVM definition.

9. Methods of Implementation

The Proposed Plan Change 13 has no methods of implementation other than the rules. The Draft Plan had a number of methods which HortNZ generally supported. It is noted that there are methods of implementation in other

chapters of the Regional Natural Resources Plan so including methods in PC13 is consistent with the style and approach in the RNRP.

There are methods other than rules which will assist in achieving the objectives and policies in PC 13 so inclusion of methods is sought.

In particular HortNZ seeks a method that promotes the use of recycling of materials to avoid burning.

A method is also sought in respect of the Council's role in respect of reverse sensitivity.

A method is also sought to provide for the development of guidance documents to assist Council and stakeholders in the management of specific issues.

Decision sought:

Include methods of implementation as set out in Schedule 2 of this submission.

10. Consequential amendments

As a result of decisions sought in this submission, consequential amendments may be required

Decision sought:

That consequential amendments are made as a result of this submission.

Schedule 2: Specific Submissions

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
1.	AQ Introduction	Support in part	The introduction distinguishes between ambient and local air quality. This distinction is supported, but the term local should be 'localised' and a definition provided so it is clear what is classed as 'localised air quality.'	Amend Introduction Para 2 by replacing 'local' with 'localised' and include a definition for localised air quality as follows: The air quality as a result of specific localised discharge to air such as dust or smoke
2.	AQ O1	Support in part	HortNZ supports an objective to ensure that discharges to air do not result in adverse effects on mauri of air, human health and environment. However an objective of 'protect' implies that no adverse effects will be anticipated. The s32 Report seeks that the effects are 'reduced' not 'avoided.' The RPS Objective 1 is: The adverse effects of odours, chemical emissions and particulates are avoided, remedied or mitigated so as to protect people and the environment. As proposed AQO1 is inconsistent with the RPS as it does not provide a framework for adverse effects to be remedied or mitigated.	Amend Objective 1 as follows: Manage discharges to air of anthropogenic contaminants to ensure mauri of air, human health and the environment are not adversely affected.
3	AQ O2	Oppose in part	The objective seeks that the regional ambient air quality meets the NES for Air Quality and the Ambient Air Quality Guidelines 2002. It is accepted that the NESAQ standards need to be met. However the Ambient Air Quality Guidelines are	Amend Objective 2: The region's ambient air quality meets the National Environmental Standards for Air Quality 2004 ~~and the Ambient Air Quality Guidelines 2002.~~

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			not standards and should not be given the status of standards in the Plan.	
4.	AQ O3	Support in part	Objective 3 relates to localised air quality and that discharges of contaminants to air are managed according to their adverse effects on human health, cultural values, amenity values and the environment. As stated in Schedule 1 above the background receiving environment varies across the region, depending on the type of activity and underlying zoning of an area. This variation needs to be taken into account when managing activities that discharge to air.	Amend AQO3 to Localised air quality Manage discharge of contaminants to air according to their adverse effects on human health, cultural values, amenity values and the environment, recognising that the background receiving environment varies across the region. Include a definition for localised air quality as sought in submission point 1 above.
5.	New objective		The Plan enables a range of activities but there is no objective that provides the planning framework for such an approach. An enabling objective should be included.	Enable discharges of contaminants to air where the potential for adverse effects can be managed through the application of best practice.
6.	Policy AQP1 Classification of activities	Support in part	HortNZ supports classifying activities as permitted where the effects can be suitably managed. However there is no provision in b) for restricted discretionary activities. RDA's are appropriate where there are clear matters of discretion that can be assessed.	Amend Policy AQP1 b) by adding 'restricted discretionary activities'.
7.	Policy AQ P2 Hazardous substances	Oppose in part	The policy establishes a framework for avoiding discharges of hazardous substances to air and where avoidance is not possible to remedy or mitigate the discharge using best practicable options.	Amend Policy AQ P2 to: Manage discharges of hazardous substances by avoiding, remedying or mitigating adverse effects of the discharge using best practicable option and ensuring

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			The premise in the policy is that discharges of agrichemicals would be avoided. HortNZ considers that the policy should provide an overall direction of managing the discharges and not setting a hierarchy within the policy framework but that best practicable option is used – which may also include avoiding the discharge. Objective 1 of the RPS provides for avoiding, remedying or mitigating adverse effects and this presumption should apply in PC13. Hazardous substances need to be approved by EPA under HSNO and it is appropriate that the need to comply with HSNO controls is included in the Plan.	that HSNO controls for specific substances are met.
8.	Policy AQ P3 Management of discharges	Support in part	Policy AQP3 sets out the framework to manage discharges to air by applying best practicable option. HortNZ supports the approach of applying best practice but seeks changes to the wording of the policy so it is practical. HortNZ considers that the thresholds set in the clauses establish inappropriate thresholds. Clause b) sets the values in the AAQG's as a threshold, which is not their intended use. A policy of 'avoid' is appropriate in respect of the NESAQ as the Plan must give effect to the NES. However a policy of 'avoid' in relation to the AAQG is not appropriate,	Amend Policy AQP3 as follows: Amend a) safeguard the life supporting capacity of air and avoid, remedy or mitigate adverse effects on human health, cultural values, amenity values and the environment. Amend b) by deleting 'or exceed the health based values of the AAQG's.' Amend d) Avoid, where reasonably possible the discharge of contaminants that may cause adverse effects on regionally significant infrastructure and where

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			especially given that it applies to all air quality and not just ambient air quality. Clause d) is a very high threshold to avoid discharges that **MAY** cause adverse effects on regionally significant infrastructure. The definition of regionally significant infrastructure in the RPS is very broad and the threshold of something that may cause an adverse effect is exercising extreme precaution across a wide range of activities. For instance the NPSET seeks that effects are avoided on the National Grid to the extent reasonably possible. It is not a complete 'avoidance' approach. Therefore the plan is more stringent than the NPSET. The RPS does not establish a framework for only avoidance – it seeks that effects are avoided remedied or mitigated and Policy EI 3B seeks that reverse sensitivity effects be avoided – not all adverse effects from discharge of contaminants. Clause e) seeks to 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. There is potential for confusion between clause a) and e) so changes are sought to ensure the clauses are more consistent.	avoidance is not possible, remedy or mitigate the adverse effects of the discharge Amend e) Minimise the discharge of contaminants into areas beyond the boundary of the subject property to avoid remedy or mitigate adverse effects.
9.	Policy AQ P4 Matters to consider	Support in part	Policy AQ P4 sets out matters to consider and have regard to when undertaking discharges to air.	Amend Policy AQP4 by

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			The policy appears to apply to both permitted and consented activities, and not just a set of matters of discretion for where resource consent is required. HortNZ considers that it is unreasonable to expect all users to consider adverse effects on the air quality values identified in the relevant iwi and hapu resource management plans. The RMA requires Councils to consider such plans when developing resource management plans but it is not a requirement for all users to consider iwi and hapu management plans as set out in the policy, particularly if the policy is to apply to permitted activities. HortNZ supports consideration of the proximity of sensitive activities to the discharge and also the effect of prevailing weather conditions as these are best practice matters that should be considered	Amend b) by deleting 'or exceed the health based values of the AAQG's.' Deleting clause c) Retain clause a) and d) Add an additional clause: The nature of the background receiving environment Distinguish the matters in Policy AQ P4 which apply to consented discharges to air as opposed to permitted activities.
10.	Policy AQ P5 Open burning	Support in part	The approach to open burning is generally supported as it provides for burning on rural land subject to best practice to minimise adverse effects and also burning for biosecurity purposes. This is essential as destruction of infected material by burning is an important tool to responding to biosecurity incursions of unwanted organisms. However the policy for open burning is dependent on the definition of urban property – which is any property	Amend the definition of urban properties to: Property zoned residential in district plans. Amend AQ P5 as follows: Manage open burning by: a) Avoiding the discharge of contaminants to air from open burning on urban properties except when carried out as part of a recreational/cultural activity b) permitting open burning outside of urban properties which:

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			less than 2 hectares and is connected to a municipal wastewater system. HortNZ considers that the definition of urban properties should be linked to district plan zoning for residential so it is clear where open burning is provided for. In addition the policy should be clear which provisions apply in rural areas. A restructured policy would provide greater clarity will retaining the proposed intent.	i) minimise production of offensive or objectionable discharges ii) are of animal carcasses and /or vegetative material burned in accordance with quarantine or disease control requirements, or iii) for the purposes of firefighting research or training.
11.	Policy AQ P6 Solid fuel burners	Support in part	HortNZ supports the policy framework for soil fuel burners but notes that it uses the term 'buildings' which is not defined. It should be clear how the term will be applied.	Clarify the use of 'buildings' in Policy AQ P6.
12.	Policy AQ P8 Agrichemical spraying	Support in part	Policy AQ P8 establishes the framework for agrichemical spraying. However the policy is not consistent with Policy AQ P3 which seeks to minimise discharges beyond the boundary of the subject property. In addition HortNZ seeks that best practice is specifically sought in relation to agrichemical applications.	Amend Policy AQP8 as follows: Agrichemical sprayers will manage adverse effects on human health and the environment by: a) ~~avoiding~~ minimising the potential for spraydrift beyond the boundary of the subject property and into water b) ~~mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible~~ c) using a risk management approach to agrichemical spraying activities d) ensuring that best practice is used in all agrichemical applications

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
13.	Policy AQ P9 Fumigation	Support in part	It is important that fumigation is able to be undertaken as it is necessary to protect NZ and enable export of products	Retain Policy AQP9
14.	New definition and policy or Schedule for offensive and objectionable		Many policies and rules in the Plan seek that noxious or dangerous and offensive or objectionable discharges are managed. Noxious and dangerous is defined in the Plan but offensive and objectionable is not. The s32 Report Appendix 2 includes a description of offensive and objectionable and how it will be assessed but this is not included in the Plan. It is accepted that case law is evolving and will assist but there should be clarity for Plan users how the terms will be applied.	Include a definition and Policy or Schedule as sought in Schedule 1 of this submission so it is clear how 'offensive or objectionable' will be assessed.
15.	New policy		Policy 3 in the Draft Plan set out a framework for consideration of reverse sensitivity. HortNZ supported the inclusion of the policy as it established a framework for considering the extent that reverse sensitivity is relevant. The proposed plan does not retain the policy or provide any clear direction relating to reverse sensitivity. HortNZ considers that the inclusion of a policy regarding reverse sensitivity is appropriate as it provides clarity in the plan by stating the role that the Council will take in managing the potential for reverse sensitivity. Such a policy will assist in achieving the objectives of the Plan.	Include a new policy as follows: The Regional Council will recognise reverse sensitivity when considering: a) complaints on discharges to air; and b) resource consent applications and making comments or submissions on territorial authority district plans and resource consent applications where new activities are proposed in areas that may compromise, constrain or conflict with existing lawfully established activities which discharge to air.

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
16.	Rule AQR1 General activities permitted	Support in part	Rule AQR1 relates to activities not provided for through activity specific rules and establishes appropriate thresholds for general activities, subject to clarification being included in the Plan for offensive and objectionable.	Retain AQR1 but provide clarification in the Plan as to how 'offensive and objectionable' will be assessed.
17.	Rule AQR2 General activities discretionary	Support in part	HortNZ seeks that there be provision for restricted discretionary activities so seek that AQR2 be amended to include reference to RDA's.	Amend AQR2 by adding "and is not otherwise a controlled, restricted discretionary or non-complying activity"
18.	Rule AQ R3 Miscellaneous discharges - Permitted	Support in part	HortNZ supports the use and application of fertiliser as a permitted activity, subject to conditions but note that the definition of 'fertiliser' in the Regional Natural Resources Plan will apply. As set out in Schedule 1 of this submission this means that the definition of fertiliser does not include all components of fertiliser and so does not provide for their discharge. The provision relating to the activity being noxious or dangerous, offensive or objectionable should focus on the adverse effects of the activity.	Amend AQ R3 following the list of activities: are permitted activities provided the discharge ~~is not~~ does not cause noxious or dangerous, offensive or objectionable adverse effects beyond the boundary of the subject property or into any water body. Amend the definition of Fertiliser to the ACVM definition of fertiliser as follows: Fertiliser a) means a substance or biological compound or mix of substances or biological compounds that is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of— (i) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
				(ii) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or (iii) fertiliser additives; and (b) includes non-nutrient attributes of the materials used in fertiliser; but (c) does not include substances that are plant growth regulators that modify the physiological functions of plants. This definition is from the ACVM Regulations. Or alternatively include the specific definition for fertiliser for discharges to air.
19.	Rule AQ R6 Open burning permitted	Support in part	The provision relating to the activity being noxious or dangerous, offensive or objectionable should focus on the adverse effects of the activity.	Amend AQ R6 c) The discharge ~~must not be~~ does not cause noxious or dangerous, offensive or objectionable adverse effects beyond the boundary of the subject property
20.	Rule AQR7 Open burning for emergency burning of diseased carcasses and vegetation - permitted	Support in part	A rule permitting the burning for biosecurity purposes is supported. However the rule refers to 'diseased vegetation' which implies vegetation that has an actual disease. Vegetation may also be infected by an unwanted organism, such as an insect species and may need to be destroyed to destroy the unwanted organism. Therefore it is more appropriate to refer to vegetation infected by unwanted organisms so it is not limited to 'diseased vegetation'.	Amend Rule AQR7 The discharge of contaminants to air from the emergency burning in the open of dead diseased marine mammals, dead diseased livestock or ~~diseased~~ vegetation infected by unwanted organisms under the Biosecurity Act 2005 is a permitted activity providing the following conditions are complied with: Amend Rule AQR7 condition c)

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			Condition b) requires that the Council is notified when a burning is to begin. HortNZ considers that if the burning meets the thresholds in Rule AQR6 then advice to the Council should not be required.	The BOP Regional Council must be notified a minimum of one hour before burning begins <u>if the conditions in Rule AQR 6 will not be met.</u>
21.	Rule AQ R10 Burning of specified materials – non complying	Support in part	The Rule seeks to limit the burning of certain materials. Horticulture NZ seeks that a new method is added to the Plan for the promotion of recycling schemes, particularly for materials that are listed in Rule AQR10.	Retain Rule AQR10 but include a method to develop and promote recycling schemes to reduce the need for open burning.
22.	Rule AQ R15 Agrichemical spraying - permitted	Support in part	HortNZ supports the approach of AQR15 based on a risk management approach but has concerns as set out in Schedule 1 of this submission. Changes are sought consistent with the identified issues relating to: - Notification - Use of best practice and NZS8409:2004 Management of Agrichemicals - Signage - Training requirements - Default rule as RDA	Amend AQ R15 as set out in Schedule 3 of this submission
23.	Rule AQ R18 Fuel burning equipment - permitted	Support in part	Rule AQ R 18 provides for fuel burning equipment. Horticultural growers who grow product in greenhouses have boilers that generate heat for the growing system. HortNZ supports the permitted activity to provide for existing fuel burning devices.	Amend AQ R18 1) e) The discharge ~~must not be~~ <u>does not cause</u> noxious or dangerous, offensive or objectionable <u>adverse effects</u> beyond the boundary of the subject property or into any waterbody.

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			However the general provision relating to the activity being noxious or dangerous, offensive or objectionable should focus on the adverse effects of the activity	
24.	Rule AQ R20 Fumigation for quarantine application or pre-shipment application – discretionary or non-complying	Support in part	HortNZ supports providing for quarantine application or pre-shipment application use of fumigants as this is essential for export trade and biosecurity.	Retain AQ R 20.
25.	Definition hand held non-motorised application	Support in part	The definition uses the term 'applicator', which appears to apply to the equipment being used. However the term 'applicator' is sometimes used to describe the person applying agrichemicals. It would be clearer if alternative wording is used to ensure that the meaning is clear.	Amend 'applicator' in the definition hand held non-motorised application to 'dispensing device'
26.	Definition hand held motorised application.	Support in part	The definition uses the term 'applicator', which appears to apply to the equipment being used. However the term 'applicator' is sometimes used to describe the person applying agrichemicals. It would be clearer if alternative wording is used to ensure that the meaning is clear.	Amend 'applicator' in the definition hand held non-motorised application to 'dispensing device'
27.	Definition intensive farming	Support in part	HortNZ supports inclusion of a definition for intensive farming but consider that it should specifically refer to the activity being taken place indoors on a permanent basis	Amend the definition of intensive farming: Means agricultural production undertaken indoors on a permanent basis....

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
			The exclusion of greenhouses is supported.	Retain exclusion for greenhouses.
28.	Definition urban property	Oppose in part	The definition of urban property is used in respect of the open burning rules. HortNZ considers that the definition should be based on urban or residential zoning in a district plan.	Amend the definition of urban property to means any property zoned urban or residential in the relevant district plan for the area.
	New method		HortNZ considers that the Plan should include a method that promotes recycling of material rather than burning. This is particularly relevant to agricultural and horticultural plastics where recycling schemes such as AgRecovery exist for disposal of such materials.	Add a new method: Promotion of recycling methods Council will support and promote recycling schemes to minimise the material burnt. Such schemes include AgRecovery for recycling of agricultural and horticultural plastics
	New Method		Asa set out in Schedule 1 relating to reverse sensitivity HortNZ supports a method setting out how the Council will implement the RPS in respect of avoiding reverse sensitivity to ensure that reverse sensitivity is a matter that is considered at the time of consent applications or establishing district planning frameworks.	Include a new method as follows: The Bay of Plenty Regional Council will seek to avoid potential reverse sensitivity effects associated with odours, chemicals, and particulates when considering resource consent applications or making submissions on district plans and resource consent applications to TA's. by actively discouraging: (a) new sensitive activities locating near activities that discharge to air offensive and objectionable odours, chemical emissions or particulates (b) New activities that discharge offensive and objectionable odours,

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
				chemical emissions or particulates from locating near sensitive activities

Consequential changes to the Regional Natural Resources Plan

Sub pt	Plan provision	Support Oppose	Reason	Decision sought
1.	Management of Air Resources under the Act	Support	HortNZ supports the wording to be included in the RNRP regarding management of air resources.	Retain proposed wording.
2	Definition agrichemical	Support	HortNZ supports the definition of agrichemical including the addition of vertebrate pest control products and oral nutritional compounds as exclusions	Retain definition of agrichemical
3	Definition of fertiliser		HortNZ has sought changes to the definition of fertiliser in the RNRP to be consistent with the ACVM Regulations.	Amend definition of fertiliser as sought in Schedule 1 of this submission.

Schedule 3 – Changes sought to Rule AQR15

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

All discharges of **contaminants** to air from the use of **agrichemicals** under any part of this rule must comply with the following conditions:

(1) General use of **agrichemicals**

(a) The discharge must not ~~be~~ cause **noxious or dangerous,** offensive or objectionable adverse effects beyond the boundary of the subject property, in any non-target *water body*, or in any non-target watercourse listed in Schedule 3 of this regional plan.

(b) Where the use of the **agrichemical** is for the prevention, eradication or management of unwanted organisms in a declared biosecurity emergency under the Biosecurity Act 1993, the **agrichemical** must be used under the direction of the responsible authority under the Biosecurity Act 1993.

(c) Where the **agrichemical** is sprayed using **drone application**, the **drone** must not operate more than 5 metres above the target while **agrichemicals** are being distributed from the **drone**. If this condition cannot be complied with, the spray method is **aerial application**, and conditions relevant to **aerial application** must be complied with.

d) The agrichemical is used or applied in accordance with NZS 8409:2004 Management of Agrichemicals Sections: Storage – Appendix L4, Use – Part 5.3, Disposal – Appendix S and Records – Appendix C9.

(2) Method of application of **agrichemicals**

(a) The discharge of **contaminants** into air from **agrichemical** spraying using: **hand-held, non-motorised application** methods is a permitted activity provided conditions 3(a), 3(c), 3(d) and 4(e) are complied with.

(b) **Hand-held, motorised application** methods or application methods using a **low pressure boom** is a permitted activity provided conditions 3(a), 3(c), 3(d), 3(e), 4(c), 4(d), 4(e) are complied with.

(c) Any other application method (including **drone application** complying with condition 1(c)) is a permitted activity provided conditions 3(a), 3(b), 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) 5(e), 5f), and 6a), b) or c) are complied with.

(3) Signage

Where specified by condition (2), the following conditions apply:

(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:
(i) "CAUTION – SPRAYING IN PROGRESS" or similar wording
(ii) the name and type of **agrichemical** used

(iii) a start and end date for spray operations
(iv) the name and phone number of the applicator
(v) that while signs are in place, it is not safe to enter.

(b) Where **agrichemicals** are sprayed within 50 metres of any **public amenity area** (**ground-based application** or **drone application** complying with condition 1(c)) or 200 metres (**aerial application**), signs must be prominently displayed on the boundary of the **public amenity area** and must clearly state "caution – spraying in progress" or similar wording.

(c) Where **agrichemicals** are sprayed within 10 metres of any **public amenity area**, signs must be prominently displayed on the boundary of the **public amenity area** and must clearly state "caution – spraying in progress" or similar wording.

(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.

(e) Any vehicles associated with **agrichemical** spraying in public places must display prominent signs front and back that clearly state "CAUTION – SPRAYING IN PROGRESS" or similar wording.

f) Where agrichemicals are applied to private land, signs must be displayed at every entrance to the property where the agrichemical is being applied before the time of application and should be removed by the applicator or agent when the land is safe for re-entry. The signs must clearly state the following:

i. "CAUTION – SPRAYED AREA" or similar wording
ii. The name and type of agrichemical used
iii. A start date and the date and time it is safe to re-enter the property
iv. The name and phone number of the person undertaking the application

(4) Notification
Where specified by condition (2), the following conditions apply:

(a) The owner/occupier or agent must notify the occupier of any properties within 50 metres (**ground-based application** or **drone application** complying with condition 1(c)) and 200 metres (**aerial application**) of where the **agrichemical** is being sprayed:

EITHER

(i) by notification, required no earlier than 72 hours and no later than ~~24~~ 12 hours before the **agrichemical** spraying. Notification must include the following:

- the address and location of proposed application
- the date/s of proposed application
- name and type of **agrichemical** to be applied
- name and phone number of applicator.

OR

(ii) according to a notification agreement with the occupier. The notification agreement must:

- contain (as a minimum) method of notification and minimum time for notification prior to spraying

- be recorded in writing and signed by all parties
- be reviewed and re-signed annually.

(b) Details of notification (including but not limited to date and time of notification, parties notified, method of notification) must be recorded.

(c) Where **agrichemical** spraying is being carried out by any person other than the owner/occupier or agent responsible for notification, the person carrying out the spraying must confirm that notification requirements have been met before spraying takes place.

(d) The owner/occupier or agent must notify the occupier of any properties within 10 metres of **agrichemical** spraying according to 4(a)(i) or 4(a)(ii), 4(b) and 4(c), except where **agrichemicals** are sprayed on land under management by the Regional Council for maintenance of rivers and drainage schemes, land used for road or rail purposes, or land designated as an esplanade strip or esplanade reserve.

(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~~ 12 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.

(5) Spray Risk Management Plan

Where specified by condition (2), the following conditions apply:

(a) Prior to the **agrichemical** spraying, a spray risk management plan must be prepared and implemented by the owner/occupier or agent.

(b) The spray risk management plan must contain the following information:

(i) A plan or map identifying the location of any **sensitive activities** within 50 metres of the land being sprayed by **ground based application** or **drone application** (complying with condition 1(c)), or within 200 metres of the land being sprayed by **aerial application**.

(ii) Areas to be sprayed, type of **agrichemical** likely to be used during the year and the times of year that spraying is likely to occur.

(iii) Strategies used to avoid contamination of **sensitive activities**.

(iv) Strategies to mitigate any spray drift caused by particular weather conditions,

(v) Strategies to manage any specific hazard associated with the **agrichemical** to be sprayed (eg. toxicity to bees).

(c) The spray risk management plan must be reviewed and updated each year that spraying will be carried out.

(d) The spray risk management plan must be made available to the Regional Council and to potentially affected parties upon request within 20 working days of such a request being made.

6. Competency

Where specified by condition 2 the following conditions apply

a) For ground-based application methods the applicator must hold a minimum of a GROWSAFE Standard Certificate or hold a GROWSAFE Basic certificate and be under the direct supervision of someone with a GROWSAFE Standard qualification.

b) For contractors applying by ground based application methods a GROWSAFE Registered Chemical Applicators Certificate or under the supervision of someone with that qualification.

c) For the application of agrichemicals from aircraft, the applicator must hold a minimum of a Pilot Chemical Rating (Civil Aviation Authority)

Advice Note: This rule manages the air discharge component of **agrichemical** use. Users must also comply with all other rules in this regional plan (see DW Discharges to Water and Land). ~~Other matters that should be considered when using **agrichemicals** include: certification, personal protection equipment, storage, transport, and disposal. Users (particularly large-scale) should also comply with the New Zealand Standard Management of Agrichemicals NZS 8409:2004.~~

Restricted Discretionary Activity

If the conditions of the permitted activity rule AQ R15 cannot be met then consent as a restricted discretionary activity would be required.

Matters of discretion
When assessing an application for discharge of contaminants into air, or onto or into land or water from the use or application of agrichemicals, the matters to be considered are:
(a) The type of agrichemical to be discharged, including its toxicity and volatility and the carrying agent (formulation);
(b) The proposed method of application, including the type of spray equipment to be used, the spray volume and droplet size, the direction of spraying and the height of release above the ground;
(c) The nature of any training undertaken by the operator;
(d) Measures to avoid agrichemical spray drift;
(e) The extent to which the use or application complies with NZS8409:2004 Management of Agrichemicals;
(f) The proximity of the use or application to potable water including roof water;
(g) The proximity of the use or application to waterbodies;
(h) The timing of application in relation to weather conditions; and
(i) Communication requirements