



# **Proposed Plan Change 13: Air Quality**

*A submission to the Bay of Plenty Regional Council*

18 April 2018

**SUBMISSIONS ON PROPOSED CHANGE 13 TO THE BAY OF PLENTY NATURAL RESOURCES  
REGIONAL PLAN UNDER CLAUSE 6 OF THE FIRST SCHEDULE TO THE RESOURCE  
MANAGEMENT ACT 1991**

**To:** Bay of Plenty Regional Council  
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**Submission on:** Proposed Plan Change 13 – Air Quality  
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Trustpower Limited (“Trustpower”) makes the following submission to the Bay of Plenty Regional Council Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan.

This submission has been prepared in general accordance with Form 5 in Schedule 1 of the Resource Management (Forms, Fees and Procedure) Regulations 2003. Section 1 of this submission provides context for the submission points (specific provisions; submission; decision sought) as set out in Section 2 of this submission.

Trustpower’s submission on the individual provisions of Plan Change 13 is set out in Section 2 of this document.

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

**Trustpower wishes to be heard in support of its submission.**

If others make a similar submission, Trustpower will **not** consider presenting a joint case with them at the hearing.

**Signature:**



Nicola Foran  
**Lead Environmental Advisor- Regulatory**  
For, and on behalf of, Trustpower Limited

**Dated:** 18 April 2018

## 1.0 Introduction and Overview

- 1.1 Trustpower is a New Zealand based renewable energy generator and multi product retailer, offering electricity, gas and telecommunication services. With a history dating back to 1915, Trustpower's electricity generation portfolio consists of 19 hydro-electric power schemes ("HEPS") throughout New Zealand.
- 1.2 Trustpower owns and operates the following hydro-electricity generation schemes ("HEPS") in the Bay of Plenty Region:
- Matahina HEPS – comprises a large earth dam on the Rangitaiki River, upstream of Te Teko. The scheme has an installed generation capacity of 80 MW and produces approximately 290 GWh of electricity per annum;
  - Kaimai HEPS – located in the Wairoa River catchment within the lower Kaimai area approximately 20km southwest of Tauranga. The scheme consists of four power stations and has an installed generation capacity of 38 MW with an average annual generation output of 167 GWh; and
  - Wheao HEPS – comprises the damming and diversion of the Wheao and Rangitaiki Rivers within the Kaingaroa Forest. The scheme has an installed generation capacity of 26.1 MW and produces approximately 111 GWh of electricity per annum.
- 1.3 The operation of these HEPS relies on the ability to undertake a number of activities involving the potential discharge of contaminants to air. These activities include weed control, via agrichemical spraying, abrasive blasting of infrastructure components such as penstocks, and the burning of waste vegetative matter including logs, debris and weed removed from intake screens and log booms.
- 1.4 Trustpower also operates a 0.8MW diesel generator at its head office at 108 Durham Street, Tauranga and a number of small generators at its HEPS for continuing operations in the event of power failure emergencies. Consequently, Trustpower has a particular interest in the management of air quality in the Bay of Plenty Region.



## 2.0 Trustpower's General Submission

Specific Provision	Support / Oppose	The submission is:	Relief Sought (additions <u>underlined</u> , deletions <del>struck-through</del> ):
All of Proposed Plan Change	Support with modification	Trustpower generally supports the intention of the objectives, policies, rules and definitions set out in the Proposed Plan Change. However, Trustpower considers that there is potential to better recognise and provide for its assets and operations within the Proposed Plan Change. This enhanced recognition is required to reflect the significant contribution Trustpower's assets and operations make to the regional and national economy, as well as the reliance communities and society place on power generated by Trustpower to function and drive economic activity and economic growth.	To retain the objectives, policies, rules and definitions of the Proposed Plan Change, except where otherwise requested by this submission. Any further and consequential amendments to achieve the intent of this submission.
Policy AQ P1	Support with modification	Trustpower supports the intent of the policy but considers that it should be amended to ensure that the avoid, remedy or mitigate scenario is outcome focused and that outcome is that the discharge results in acceptable adverse effects. That is, there will undoubtedly be instances where the adverse effects of a discharge cannot be fully avoided, remedied or mitigated but that the residual adverse effects are acceptable in terms of nature and scale, and thus able to be provided for by a permitted activity status. Further, the current rule framework of the Plan Change does not align with the policy because all industrial trade activities are assigned a discretionary status irrespective of the likely nature and scale of their resultant adverse effects.	Amend Policy AQ P1 to read: <i>Manage the discharge of contaminants to air according to the following:</i> <i>(a) Permit discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge to <u>an acceptable nature and scale.</u></i> <i>(b) Classify all other discharges where (a) does not apply, as controlled, discretionary, or non-complying activities</i>
Policy AQ P2	Support with modification	Trustpower supports the intent of the policy but considers that it should be amended. It appears the BOPRC has confused "hazardous substances" with "hazardous air pollutants". Hazardous substances are defined under the Hazardous Substances and New Organisms Act. The policy as currently drafted sets a bottom line of avoiding	Amend Policy AQ P2 to read: <i>Seek to avoid discharges of hazardous <del>substances</del> air pollutants <del>to air</del> and where avoidance is not possible, remedy or mitigate the discharge using the best practicable option</i>

<p>Policy AQ P3</p>	<p>Support with modification</p>	<p>all discharges of hazardous substances and case law (Davidson) has made it clear that bottom lines must be achieved. Trustpower suggests that the qualification which commences with “and where avoidance is not possible...” would be subject to legal challenge in terms of the bottom line that precedes it. “Avoid” literally mean there is no allowance for a discharge of any amount, irrespective of scale, and effects. The inclusion of “seek to avoid” at the commencement of the policy ensures that it clear that avoidance is preferable but not of itself a bottom line.</p> <p>Trustpower supports the intent of the policy but considers that it should be amended. In terms of (a), Trustpower suggests that the inclusion of “ avoid, remedy and mitigate” is consistent with the hierarchy of sustainable management measures set out within the RMA in terms of all adverse effects other than human health effects. Further, Trustpower considers the text “contribute to” in (b) is inappropriate. This is because an activity could result in an insignificant contribution to an exceedance or breach of the of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs and therefore not be provided for. The incorporation of the text “contributes to” removes the significance test and could see an activity which has a negligible effect on compliance with the standards and guidelines refused consent.</p> <p>Turning to (d), it is not necessary or appropriate in a resource management practice context to avoid all adverse effects. If this were the case, then most if not all discharges to the environment would be prohibited by regional plans. It is however, appropriate for regional plans to require avoidance of significant adverse effects. For this reason Trustpower considers the inclusion of “significant” into (d) is necessary.</p>	
			<p>Amend Policy AQ P3 to read:</p> <p>Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:</p> <p>(a) safeguard the life supporting capacity of the air, avoid adverse effects on human health, and <del>manage</del> <b>avoid, remedy or mitigate</b> adverse effects on cultural values, amenity values, and the environment</p> <p>(b) avoid the discharge of contaminants at a rate or volume that may <del>contribute to,</del> <b>cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs</b></p> <p>(c) avoid reduction in visibility where it may cause adverse effects on vehicle, aircraft, or ship safety</p> <p>(d) avoid the discharge of contaminants that may cause <b>significant</b> adverse effects on regionally significant infrastructure</p> <p><del>(e) minimize 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.</del></p>

	<p>In Trustpower's view (e) is superfluous and to some extent conflicts with (a) to (d). The "beyond the boundary" issue is already dealt with by (a) to (d). Consequently, it is requested that (e) is deleted in its entirety.</p>	
<p>AQ P5</p>	<p>Trustpower supports the intent of the policy which is to provide for open burning outside of urban areas for specified uses and purposes. From time to time Trustpower needs to burn waste removed from intake screens and log booms within their HEPS. This waste comprises organic matter including logs, debris and weed. Provided these materials are dried sufficiently prior to burning, any adverse effects are likely to be minor, short lived and occur in remote locations away from sensitive receptors. For this reason, Trustpower considers the inclusion of the text under (d) to be appropriate. Further, Trustpower considers that the related Rule AQ R6 is enabling towards many activities, whereas this policy as currently drafted is very narrow to certain activities and so there is a disconnect that requires being addressed.</p>	<p>Support with modification</p>
<p>AQ P8</p>	<p>Trustpower applies agrichemicals to the banks and even the surface of the water contained in the canals of its HEPS. These agrichemicals are used to control the growth of terrestrial and aquatic plants can cause issues in terms of access to and the efficient operation of infrastructure such as intake screens. In such circumstances Trustpower deliberately applies agrichemicals to water and there will be consequential spray drift to the target waterbody. Consequently, Trustpower considers the inclusion of the text "non target" to (a) is necessary as well the qualification around the relationship between the sensitive activity and the target water body under (b).</p>	<p>Support with modification</p>
<p>AQ R1</p>	<p>Trustpower supports the inclusion of a permissive "catch all" provision for any of its future ancillary activities and</p>	<p>Support with modification</p>
		<p>Amend Policy AQ P5 to read:  <i>Avoid the discharge of contaminants to air from open burning on urban properties while permitting open burning:</i>  <i>(a) carried out as part of a recreational/cultural activity, and/or outside urban areas, provided the burning is managed to minimise production of noxious or dangerous, offensive or objectionable discharges</i>  <i>(b) of animal carcasses and/or vegetative material burned in accordance with quarantine or disease control requirements</i>  <i>(c) for the purposes of firefighting research or training.</i>  <u><i>(d) relating to the operation and maintenance of hydroelectric power schemes</i></u></p>
		<p>Amend Policy AQ P8 to read:  <i>Agrichemical sprayers will manage adverse effects on human health and the environment by:</i>  <i>(a) avoiding spray drift beyond the boundary of the subject property and into non target water bodies where possible</i>  <i>(b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible or the sensitive activity relates to the target water body</i>  <i>(c) using a risk management approach for agrichemical spraying activities with a higher risk of becoming noxious or dangerous, offensive or objectionable.</i></p>
		<p>Amend Rule AQ R1 to read:</p>

		<p>so generally supports the proposed rule. However, Trustpower opposes the inclusion of (c). The definition provided in the Regional Natural Resources Plan for an “industrial or trade premise” is too broad and ambiguous. Without the definition of industrial or trade premise clarified, Trustpower is concerned that some of its activities may be considered in the future to be industrial or trade premises. The way the rule is currently drafted it makes all industrial or trade premises a discretionary activity, irrespective of size, scale and effects.</p>	<p>Any discharge of contaminants into air which is not subject to any other rule in this regional plan and excluding the discharge of dust to air associated with a plantation forestry activity, is a permitted activity provided the following conditions are complied with:</p> <p>(a) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property or into any water body.</p> <p>(b) The discharge of smoke or water vapour must not adversely affect the safety of any vehicle, aircraft, or ship.</p> <p>(c) <del>The discharge is not from industrial or trade premise</del></p>
AQ R4	Support	Trustpower has unsealed access roads to its hydroelectric power schemes and considers it would be unreasonable to have to obtain discharge permits for vehicle movements on these roads.	Retain Rule AQ R4 as drafted.
AQ R6	Support	As set out under the submission point to AQ P5, Trustpower needs to undertake open burning and therefore supports the rule as currently drafted.	Retain AQ R6 as drafted.
AQ R15	Support	As set under the submission point to AQ P8, Trustpower applies agrichemicals to the banks and even the surface of the water contained in the canals of its hydroelectric power schemes. Further, the rule contains the reference to “non-target” that Trustpower is seeking for inclusion to the supporting Policy.	Retain AQ R15 as drafted.
AQ R16	Support with modification	Trustpower undertakes spray painting of infrastructure components such as penstocks to protect them from corrosion. Due to the location of the infrastructure and topographic conditions surrounding its infrastructure, it will invariably be impracticable for Trustpower to erect spray booths and stacks as required by (a) and (b). Given the remote locations of Trustpower’s operations and activities it considers that (c) is the only permitted activity	<p>Amend Rule AQ R16 to read:</p> <p><i>The discharge of contaminants to air from the spray application of surface coatings containing di-isocyanates, organic plasticisers, or spray on anti-fouling paint (excluding the application of protective coatings to transmission line support structures) is a</i></p>

	<p>condition required to ensure the discharge from spray painting results in acceptable adverse effects beyond the subject property boundary.</p> <p>Trustpower considers that the OR (ii) BPO method alternative provided under Rule AQ R17 would be acceptable for its spray painting operations as would (d) under AQ R17 as all operations would be "mobile".</p> <p>Trustpower notes that blasting and painting are almost always undertaken together (i.e. it would be unusual to blast a penstock and then not paint it almost immediately). Therefore, it is unusual for the rules of the Proposed Plan Change to allow blasting to occur under a BPO method without a booth but not apply the same philosophy to the painting operation.</p> <p>Trustpower therefore proposes two possible amendment scenarios to the current drafting of the rule.</p>	<p>permitted activity provided the following conditions are complied with:</p> <p>(a) The spraying is carried out in a spray booth, room, or enclosure fitted with an air extraction system that discharges all contaminants and exhaust air to an emission stack.</p> <p>(b) The discharge must be an unimpeded vertical discharge from the emission stack at least 3 metres above the ridge height of the building and 3 metres above the highest ridgeline of any roof within 30 metres.</p> <p>(c) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property.</p> <p><b><u>Except that conditions (a) and (b) above shall not apply to spray painting of infrastructure which forms part of a hydroelectric power scheme.</u></b></p> <p>Or Amend AQ R16 to read:</p> <p>The discharge of contaminants to air from the spray application of surface coatings containing diisocyanates, organic plasticisers, or spray on anti-fouling paint (excluding the application of protective coatings to transmission line support structures) is a permitted activity provided the following conditions are complied with:</p> <p>(a) The spraying is carried out in a spray booth, room, or enclosure fitted with an air extraction system that discharges all contaminants and exhaust air to an emission stack.</p> <p>(b) The discharge must be an unimpeded vertical discharge from the emission stack at least 3 metres above the ridge height of the building and 3 metres above the highest ridgeline of any roof within 30 metres. <b><u>OR</u></b></p> <p><b><u>where (a) and (b) cannot be met due to the mobile nature on an operation then the discharge must be</u></b></p>
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<p><b>controlled using a current, best practice method such as screening and paint technologies.</b> <i>(c) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property.</i></p>		
<p>Retain AQ R17 as drafted.</p>	<p>As discussed above in submission point to AQ R16, Trustpower undertakes abrasive blasting of infrastructure components such as penstocks to prepare them for painting. Due to the location of the infrastructure and topographic conditions surrounding its infrastructure, it will invariably be impracticable for Trustpower to erect a sealed blasting booth as required under (a)(i). Therefore the retention of (a)(ii) is critical to Trustpower.</p>	<p>Support</p>
<p>Retain AQ R21 as drafted. Trustpower reserves the right to amend this submission point should the Proposed Plan Change be amended to include a more specific definition of “industrial and trade premise” and this activity gets included under AQ R21 as a discretionary activity.</p>	<p>Trustpower notes that the rule as currently drafted does not address an industrial and trade activity and that none of the activities listed are activities that Trustpower undertakes. As stated under submission point AQ R1, Trustpower is concerned that some of its activities may be considered in the future to be “industrial or trade premises” and that having to apply for discretionary consents on a case by case basis has the potential to affect its operations and activities.</p>	<p>Support</p>
<p>Amend the definition to read: <i>Fuel burning equipment often referred to as a “boiler” means a device used for the combustion of fuel within an enclosed combustion chamber in which heat is transferred from the products of combustion directly for the production of useful heat or power. For clarity this excludes <u>diesel fired generators</u>, vehicles, ships, aircraft, solid fuel burners, and enclosed incineration.</i></p>	<p>Trustpower operates a 0.8 MW diesel generator at its head office in Durham Street Tauranga, as well as a number of small generators at its hydroelectric power schemes. The generators at the hydroelectric power schemes are critical for maintaining safe operations in the event of a power failure, for example being able to operate spillway gates. The current drafting of the definition infers that a diesel generator would be considered to be fuel burning equipment because these devices combust diesel to produce power. If the current drafting was retained, then AQ R18 would apply to Trustpowers’ generators. Through discussions with the BOPRC it has been confirmed that</p>	<p>Support with modification</p>



	<p>the BOPRC intends that diesel generators are provided for as a permitted activity under AQ R1.</p> <p>Trustpower therefore proposes an amendment to the current drafting of the definition for fuel burning equipment to make it clearer that its generators are not classified as fuel burning equipment and caught by AQ R18.</p>	
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